

13<sup>th</sup> April 2015

**Notice of meeting:**

**Licensing & Regulatory Committee**

**Tuesday 21<sup>st</sup> April 2015 at 10.00 a.m.**

**Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA**

**AGENDA**

*The Council welcomes contributions from members of the public through the medium of Welsh or English. We respectfully ask that you provide us with adequate notice to accommodate your needs.*

Item No	Item
1.	Apologies for absence.
2.	Declarations of Interest.
3.	To confirm for accuracy the minutes of the Licensing and Regulatory Committee held on Tuesday 10 <sup>th</sup> March 2015 (copy attached).
4.	To receive reports from the Principal Licensing Officer:  i) Gambling Act 2005 – Premises Licence Fees (copy attached) ii) Licensing Act 2003 Policy Statement (copy attached)
5.	<b>To consider whether to exclude the press and public from the meeting during consideration of the following items of business in accordance with Section 100A of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 12 of Part 4 of Schedule 12A to the Act, having regard to the certificates prepared under Schedule 12A of the Local Government Act 1972 – Exemption From Disclosure of Documents (Proper Officer's view attached).</b>

6.	To consider whether to continue with the Hackney Carriage/Private Hire Drivers Licence (copy attached).
7.	<b>To readmit press and public.</b>
8.	To note the date and time of the next Licensing and Regulatory Committee: <ul style="list-style-type: none"><li data-bbox="316 488 863 519">• Tuesday 9<sup>th</sup> June 2015 at 10.00am</li></ul>

**Paul Matthews**

**Chief Executive**

**MONMOUTHSHIRE COUNTY COUNCIL**

**CYNGOR SIR FYNWY**

**THE CONSTITUTION OF THE LICENSING & REGULATORY COMMITTEE IS AS FOLLOWS:**

County Councillors:

R. Chapman  
R. Edwards  
D.J. Evans  
L. Guppy  
M. Hickman  
R.J. Higginson  
S.G.M. Howarth  
J. Prosser  
B. Strong  
F. Taylor  
P. Watts  
A.E. Webb

# Aims and Values of Monmouthshire County Council

## Building Sustainable and Resilient Communities

### Outcomes we are working towards

#### **Nobody Is Left Behind**

- Older people are able to live their good life
- People have access to appropriate and affordable housing
- People have good access and mobility

#### **People Are Confident, Capable and Involved**

- People's lives are not affected by alcohol and drug misuse
- Families are supported
- People feel safe

#### **Our County Thrives**

- Business and enterprise
- People have access to practical and flexible learning
- People protect and enhance the environment

### Our priorities

- Schools
- Protection of vulnerable people
- Supporting Business and Job Creation
- Maintaining locally accessible services

### Our Values

- **Openness:** we aspire to be open and honest to develop trusting relationships.
- **Fairness:** we aspire to provide fair choice, opportunities and experiences and become an organisation built on mutual respect.
- **Flexibility:** we aspire to be flexible in our thinking and action to become an effective and efficient organisation.
- **Teamwork:** we aspire to work together to share our successes and failures by building on our strengths and supporting one another to achieve our goals.

# MONMOUTHSHIRE COUNTY COUNCIL

## Minutes of the meeting of the Licensing and Regulatory Committee held at County Hall, Usk on Tuesday 10<sup>th</sup> March 2015 at 10.00 a.m.

**PRESENT:** County Councillor: L. Guppy (Chairman)

County Councillors: R. Chapman, R. Edwards, D.J. Evans, J. Higginson, F. Taylor, B. Strong and P. Watts.

### **OFFICERS IN ATTENDANCE:**

Mrs. L. O’Gorman	-	Principal Licensing Officer
Mr. G. Perry	-	Public Protection Manager
Mr. H. Owen	-	Principal Environment Health Officer
Mr. I. Gealy	-	Solicitor
Mrs. N. Perry	-	Democratic Services Officer

### **1. APOLOGIES FOR ABSENCE**

We received apologies for absence from County Councillors M. Hickman, S. Howarth, J. Prosser and A. Webb.

### **2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

The Chairman agreed to accept an additional agenda item for consideration. The Committee resolved to receive the report relating to:

### **3. STREET TRADING CONSENT**

The Committee were required to consider the conditions attached to the Street Trading Consent STR004 – M C Coffee Bar Ltd (Miserable Cow Coffee Bar Ltd), Abergavenny. The business owner, Ms F. Bevan, attended the meeting to provide Members with relevant information.

We heard that the Miserable Cow Coffee Bar was a self-contained, open air, coffee shop situated in the Open Air Precinct, Cibi Walk, Abergavenny. It had held a Street Trading Consent since June 2006 and under the Licensing Act 2003 was permitted to sell alcohol at the venue. The licence had been granted following consultation with all responsible authorities, with the conditions that no open or sealed containers of alcohol be permitted outside of the cordoned seated area, and that the business operated a challenge 21 policy on which all staff should be suitably trained.

Ms Bevan confirmed that the business was contained and securely locked down after 6.00pm. Staff were aware that each customer must only consume alcohol within the premises. Ms Bevan explained that she had not wanted alcohol to be the main point at the coffee bar, but wanted the ability to provide diversity. In the summer months the shop would look to serve local beers and wines.

**Minutes of the meeting of the Licensing and Regulatory Committee held at  
County Hall, Usk on Tuesday 10<sup>th</sup> March 2015 at 10.00 a.m.**

Members were required to agree that the conditions attached to the continuation of the street trading consent would either:

- a. include the sale of alcohol, or
- b. exclude the sale of alcohol, or
- c. include the sale of alcohol subject to limitations.

The Principal Licensing Officer explained that should Members be minded to exclude the sale of alcohol it would be a direct contradiction with the Licensing Act 2003 in that the licence would have to be revoked or the applicant would have to surrender the licence. To revoke a licence the premises would have to be reviewed and as there had been no issues with the premises we would have no grounds to review the premises. Members were asked to consider if the policy should be reviewed with the intention to remove alcohol from the Street Trading Consent Policy and for it to be considered to under the Licensing Act 2003.

Following the report Members noted the following points:

- The fact that the facility was securely locked at night made a positive difference.
- The business was well established and well run, and held acceptable hours of trading.
- All drinks were served in appropriate receptacles, and visitors were able to be closely monitored.
- Staff were well trained and operated a challenge 21 system.

Members resolved to accept the recommendation that the Street Trading Consent should continue and include the sale of alcohol. It was recognised that conditions and restrictions were in place under the Licensing Act 2003.

It was noted that the Committee would look at the Street Trading Policy at a future meeting to discuss any amendments that may need to be put in place.

#### **4. CONFIRMATION OF MINUTES**

The minutes of the Licensing and Regulatory Committee meeting held on Tuesday 20<sup>th</sup> January were confirmed as a correct record and signed by the Chairman, subject to the following amendment:

- **PRESENT** – County Councillor J. Higginson

#### **5. ANNUAL LICENSING FEES FOR THE FINANCIAL YEAR 2015/2016**

We received a report from the Public Protection Manager providing the Authority's licence fees for 2015-2016. Members were required to approve the fees set out in the report. A Member queried why the Committee was being asked to review the fees as it had been reviewed previously. We were informed that the fees were agreed on an annual basis and were therefore due for review.

During discussion Members raised the following points:

- It was noted that there were some favourable amendments, particularly to taxi drivers.

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- A Member raised a concern that under the Street Trading Consent, the fee of £41 was too high for day traders attending events. It was thought that the fee would deter people from coming to events as they would be unable to make profit, for instance burger van or scout groups selling welsh cakes. In response we were informed that the day consent fee was as cost effective as possible, without having to carry out inspections. There were elements under Street Trading legislation where consent was not needed, for example if an entrance fee had been charged for the venue. Officers confirmed that advice was provided as necessary. The Officer expressed that the only way to alleviate the problem would be to include in the policy that charges would not be made in those circumstances. The Member confirmed that he accepted the other recommendations in the policy but wished to discuss amendments to the policy at the next Licensing Committee meeting
- The Public Protection Manager explained that officers were currently considering conditions surrounding consents. Block Trading Consents enabled the organisers to control the event and make a moderate charge to stall holders, providing that stall holders complied with conditions set out in the consent. Block Consent could also set required food rating standards. The Officer agreed that it would be beneficial to discuss the policy regarding consent at a future meeting.
- A Member questioned if three events could be covered under one fee. It was explained that if the trading was constantly held in one area it could be covered under an Annual Consent, it would then be up to the consent holder how to manage the area.
- Health and Safety checks undertaken for events by the Events Safety Advisory Group did not confirm that the correct licences or consents were in place as required by law.
- The Chairman questioned if the officers predicted any problems with the fees for Hackney Carriage and Private Hire. It was thought that a five year charge would be a substantial burden for businesses. The Principal Licensing Officer explained that new legislation was proposed to take place from April 2015. Under current legislation there was a three year licence for drivers or a five year licence for operators, under the proposed legislation individual cases could be brought to Committee for shorter term licenses. It was assessed on workload each year and DVLA checks were carried out annually, and DBS checks every three years. The Licence could not be issued unless the fee was in place, in which case an invoice could be issued and arrangements put in place to pay on a monthly basis. It was confirmed that a lapse in payment could result in the licence being invalid. The taxi association would be informed if the proposal was granted.

The Committee resolved to accept the report, with the recommendation that the fees and regulations relating to the Street Trading Consent, specifically community events, be brought back to Committee for discussion.

## **6. MOBILE HOMES (WALES) ACT 2013**

We received a report in order to consider the proposed approach to discharging the Council's responsibilities under the Mobile Homes (Wales) Act 2013. Members were recommended to

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agree the Standard Conditions which may be attached to a site licence, and to agree to a fit and proper person policy. Members were also required to consider that where there were no relevant issues that officers may approve applications.

Members noted that we had previously received the draft report and accepted the recommendations made by officers.

The Chairman made a suggestion that the policy should include a procedure for the right to appeal. It was questioned how the licence be managed if it was granted for a five years. The Officer confirmed that it was general practice to grant a licence for a five year period.

A Member felt that the fit and proper person guidelines were vague and it could be a problem that people were not tested as standard. The Officer informed the Committee that if there were elements of doubt a Section 115 could be undertaken with the police but unless the Authority had a good reason, they should not ask the applicant to undertake a DBS check.

The Officer advised that if the Authority decided that a person was not a fit and proper person to manage a site, or there were conditions attached which they were aggrieved by, there was an appeal period of 28 days to the Residential Property Tribunal.

The Public Protection Manager confirmed that the procedure for a hearing (if there were issues that needed to be considered by the Committee) would be similar to those held for taxi licence issues. There would need to be an element of guidance but each case would be considered on its own merits.

It was recognised that there were no issues with the actual policy but there was a need for clarity on how to process a hearing. Therefore, Members agreed to endorse the policy with the recommendation that clarification on the procedure for a hearing to be provided in due course.

## **7. TIME AND DATE OF NEXT MEETING**

The date and time of the next meeting was confirmed as Tuesday 21<sup>st</sup> April 2015 at 10.00am

**The meeting ended at 11.30am.**



**MONMOUTHSHIRE COUNTY COUNCIL  
REPORT**

**SUBJECT: Gambling Act 2005 – Premises Licence Fees**

**DIRECTORATE: Chief Executives**

**MEETING: Licensing & Regulatory Committee**

**Date to be considered: 21<sup>st</sup> April 2015**

**DIVISION/WARDS AFFECTED: All Wards**

**1. PURPOSE:**

1.1 To agree the fees to set for this Authority in relation to Premises Licences under the Gambling Act 2005 for 21<sup>st</sup> May 2015 – 20<sup>th</sup> May 2016.

**2. RECOMMENDATION(S):**

2.1 It is recommended that:-

- (i) the fees and charges detailed in Appendix A of the report be approved and have effect from 21<sup>st</sup> May 2015; and
- (ii) The fees subsequently be reviewed annually.

**3. KEY ISSUES**

3.1 This Authority has a statutory duty under the Gambling Act 2005 to set fees for Premises Licences in accordance with the Gambling (Premises Licence)(England and Wales) Regulations 2007. The fees for these licences are to be reviewed and set annually on the 21<sup>st</sup> May each year. Premises Licences will include Betting Shops, Tracks, Adult Gaming Centres, Family Entertainment Centres and Bingo Premises. A fee assessment has not been carried out for Casinos as the Authority carried a resolution not to allow Casinos within its County at Full Council on 22<sup>nd</sup> November 2012.

3.2 The general functions of the licensing authority in dealing with Gambling Premises Licences has been delegated to the Licensing and Regulatory Committee. This was agreed in the Gambling Act 2005 Statement of Licensing Policy approved at Full Council on 22<sup>nd</sup> November 2012.

3.3 Licensing Authorities do not have the power to set fees for Permits which will be set by Central Government.

3.4 The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 provided for the following types of fees to be determined by licensing authorities:

- Licence application fee
- First annual fee
- Annual fee
- Notification of change of circumstances fee
- Application to vary a licence fee
- Application to transfer a licence fee
- Fee for a copy of a licence
- Application for re-instatement of a licence fee
- Provisional statement application fee.

The Authority currently licence eleven premises under the Gambling Act 2005 consisting of nine betting premises, one track betting and one adult gaming centre all of whom will be required to pay an annual fee.

- 3.5 The European Services Directive, along with other regulations, statutory guidance and case law underline that fees must be set on a “reasonable” cost recovery basis only and cannot be set in such a manner as to generate a profit or act as an economic deterrent to traders. In determining reasonable costs the Authority may take account of costs averaged over a reasonable period (up to three years). However, The Regulations referred to in 3.4 above has stipulated a maximum figure a local authority is permitted to charge for the licensing of premises under the Gambling Act 2005.
- 3.6 An assessment of the cost and the maximum amount a local authority can charge for premises licences has been undertaken and this is shown in Appendix B attached to this report. As a result of this assessment this report proposes that the fees commencing the 21<sup>st</sup> May 2015 be set as stipulated in Appendix A.

#### **4. REASONS:**

- 4.1 The authority has a duty to set fees and the charges set out represent a cost recovery within the Government’s maximum levels.

#### **5. RESOURCE IMPLICATIONS:**

- 5.1 The Fees in Appendix A are set out to ensure the recovery of reasonable costs.

#### **6. CONSULTEES:**

None

#### **7. BACKGROUND PAPERS:**

Gambling Act 2005.

Gambling Commission Guidance issued under Section 349 of the Gambling Act 2005.

#### **8. AUTHOR:**

Linda O’Gorman

Principal Licensing Officer

#### **CONTACT DETAILS:**

Tel: 01633 644214

Email: [lindaogorman@monmouthshire.gov.uk](mailto:lindaogorman@monmouthshire.gov.uk)

## APPENDIX A

### Gambling Act 2005 – Premises Licence Fees 21<sup>st</sup> May 2015 - 20<sup>th</sup> May 2016

<b>Application Fee</b>		
	Bingo Premises Licence	£2163.00
	Adult Gaming Centre Premises Licence	£1625.00
	Betting Premises (Track) Licence	£1863.00
	Family Entertainment Centre Premises Licence	£1219.00
	Betting Premises (Other) Licence	£1818.00
<b>Application Fee for Premises with a Provisional Statement</b>		
	Bingo Premises Licence	£1200.00
	Adult Gaming Centre Premises Licence	£1200.00
	Betting Premises (Track) Licence	£ 950.00
	Family Entertainment Centre Premises Licence	£ 950.00
	Betting Premises (Other) Licence	£1200.00
<b>Annual Fee</b>		
	Bingo Premises Licence	£1000.00
	Adult Gaming Centre Premises Licence	£1000.00
	Betting Premises (Track) Licence	£1000.00
	Family Entertainment Centre Premises Licence	£ 750.00
	Betting Premises (Other) Licence	£ 600.00
<b>Transfer Application Fee</b>		
	Bingo Premises Licence	£1200.00
	Adult Gaming Centre Premises Licence	£1200.00
	Betting Premises (Track) Licence	£ 950.00
	Family Entertainment Centre Premises Licence	£ 950.00
	Betting Premises (Other) Licence	£1200.00
<b>Variation Application Fee</b>		
	Bingo Premises Licence	£1750.00
	Adult Gaming Centre Premises Licence	£1000.00
	Betting Premises (Track) Licence	£1250.00
	Family Entertainment Centre Premises Licence	£1000.00
	Betting Premises (Other) Licence	£1500.00
<b>Provisional Statement Application Fee</b>		
	Bingo Premises Licence	£2160.00
	Adult Gaming Centre Premises Licence	£1622.00
	Betting Premises (Track) Licence	£1860.00
	Family Entertainment Centre Premises Licence	£1215.00
	Betting Premises (Other) Licence	£1815.00
<b>Application for Reinstatement Fee</b>		
	Bingo Premises Licence	£1200.00
	Adult Gaming Centre Premises Licence	£1200.00
	Betting Premises (Track) Licence	£ 950.00
	Family Entertainment Centre Premises Licence	£ 950.00
	Betting Premises (Other) Licence	£1200.00
<b>Change of Circumstances Fee</b>		£ 50.00
<b>Duplicate Licence Fee</b>		£ 25.00

**APPENDIX B**

	<b>MAXIMUM PERMITTED FEES ALLOWED</b>	<b>MON C.C. EXISTING FEES ENDING 20<sup>TH</sup> MAY 2015</b>	<b>MON C.C. FEE CALCULATION</b>	<b>MON C.C. PROPOSED FEE FROM 21<sup>ST</sup> MAY 2015</b>
<b>Application Fee</b>				
Bingo Premises Licence	£3,500	£2,149	£2,163	£2,163
Adult Gaming Centre Premises Licence	£2,000	£1,602	£1,625	£1,625
Betting Premises (Track) Licence	£2,500	£1,840	£1,863	£1,863
Family Ent Centre Premise Licence	£2,000	£1,202	£1,219	£1,219
Betting Premises (Other) Licence	£3,000	£1,807	£1,818	£1,818
<b>Application Fee where Provisional Statement Previously Issued</b>				
Bingo Premises Licence	£1,200	£1,200	£2,098	£1,200
Adult Gaming Centre Premises Licence	£1,200	£1,200	£1,561	£1,200
Betting Premises (Track) Licence	£950	£950	£1,798	£950
Family Ent Centre Premise Licence	£950	£950	£1,154	£950
Betting Premises (Other) Licence	£1,200	£1,200	£1,753	£1,200
<b>Annual Fee</b>				
Bingo Premises Licence	£1,000	£1,000	£1,983	£1,000
Adult Gaming Centre Premises Licence	£1,000	£1,000	£1,446	£1,000
Betting Premises (Track) Licence	£1,000	£1,000	£1,683	£1,000
Family Ent Centre Premise Licence	£750	£750	£1,039	£750
Betting Premises (Other) Licence	£600	£600	£1,638	£600
<b>Transfer Application Fee</b>				
Bingo Premises Licence	£1,200	£1,200	£1,949	£1,200
Adult Gaming Centre Premises Licence	£1,200	£1,200	£1,472	£1,200
Betting Premises (Track) Licence	£950	£950	£1,649	£950

Family Ent Centre Premise Licence	£950	£950	£1,066	£950
Betting Premises (Other) Licence	£1,200	£1,200	£1,604	£1,200
<b>Variation Application Fee</b>				
Bingo Premises Licence	£1,750	£1,750	£2,160	£1,750
Adult Gaming Centre Premises Licence	£1,000	£1,000	£1,622	£1,000
Betting Premises (Track) Licence	£1,250	£1,250	£1,860	£1,250
Family Ent Centre Premise Licence	£1,000	£1,000	£1,215	£1,000
Betting Premises (Other) Licence	£1,500	£1,500	£1,815	£1,500
<b>Provisional Statement Application Fee</b>				
Bingo Premises Licence	£3,500	£2,146	£2,160	£2,160
Adult Gaming Centre Premises Licence	£2,000	£1,599	£1,622	£1,622
Betting Premises (Track) Licence	£2,500	£1,837	£1,860	£1,860
Family Ent Centre Premise Licence	£2,000	£1,199	£1,215	£1,215
Betting Premises (Other) Licence	£3,000	£1,804	£1,815	£1,815
<b>Application for Reinstatement Fee</b>				
Bingo Premises Licence	£1,200	£1,200	£2,047	£1,200
Adult Gaming Centre Premises Licence	£1,200	£1,200	£1,571	£1,200
Betting Premises (Track) Licence	£950	£950	£1,747	£950
Family Ent Centre Premise Licence	£950	£950	£1,164	£950
Betting Premises (Other) Licence	£1,200	£1,200	£1,702	£1,200
<b>Change of Circumstances Fee</b>	£50	£50	£118	£50
<b>Duplicate Licence Fee</b>	£25	£25	£32	£25

**MONMOUTHSHIRE COUNTY COUNCIL  
REPORT**

**SUBJECT:** Licensing Act 2003 Policy Statement

**DIRECTORATE:** Chief Executives

**MEETING:** Licensing & Regulatory Committee

**Date to be considered:** 21<sup>st</sup> April 2015

**DIVISION/WARDS AFFECTED:** All Wards

**1. PURPOSE:**

1.1 To consider the proposed 'Draft Licensing Policy 2015' prior to submission to Full Council for decision.

**2. RECOMMENDATION(S):**

2.1 Members consider the proposed updated policy statement and comment accordingly (Attached as Appendix A).

2.2 Members note that certain other legislative changes will need to be incorporated into the Statement of Licensing Policy 2015 prior to Full Council.

**3. KEY ISSUES**

3.1 Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a statement of its licensing policy every five years. It has been nearly five years since the last policy was approved at Full Council on 18<sup>th</sup> November 2010 and this report sets out the procedure and proposed, updated, policy statement for prior to consideration at Full Council.

3.2 At the Licensing and Regulatory Committee of 20<sup>th</sup> January 2015 Members were informed that before determining its policy for a five year period, a licensing authority must consult with the following:-

- The Chief Officer of Police for the licensing authority's area,
- The Fire Authority for that area,
- Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- Such persons as the licensing authority considers to be representatives of holders of club premises certificates issued by that authority,
- Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- Such other persons as the licensing authority considers to be representatives of businesses and residents in its area.

3.3 This consultation has been conducted and responses received referred to typographical errors which has been rectified within the Policy. Heddlu Gwent Police requested an addendum in 17.1 to include the Anti-Social Behaviour, Crime and Policing Act 2014 and to remove Designated Public Places Orders, which has changed to Public Space Protection Orders under this Act, which has duly been carried out.

3.4 At the Licensing and Regulatory Committee held on 20th January 2015 it was noted the revised policy was endorsed by the Gwent Authorities and that it had taken into account legal changes which affected the Licensing Act 2003 and the preparation of the

Statement of Licensing Policy. At this meeting it was recommended that such changes be highlighted in red to assist in the scrutiny of the revised policy, which has been carried out and is attached to this report as Appendix A. The Legal changes that affected the policy include;

- The Police Reform and Social Responsibility Act 2011 was introduced in two stages. The first stage came into force on 25<sup>th</sup> April 2012 and the second phase came into force on 31<sup>st</sup> October 2012. The changes in April 2012 included, extending the review period for the licensing policy from 3 years to 5 years. Licensing Authorities and Local Health Boards were able to make representations. A person no longer had to be in the vicinity to make a representation against a venue. Conditions imposed at a Licensing Sub-Committee against a premises licence no longer have to be 'necessary' but 'appropriate'. Environmental Health are able to make representations along with the Police on Temporary Event Notices (TENs) and if objections are made conditions can be imposed on the Notices. The Notices changed to allow late TENs to be submitted between 5 and 9 working days before an event. Licensing Authorities can suspend a premises licence for non-payment of annual fees. The changes in October 2012 allowed Authorities to introduce Early Morning Restriction Orders (EMROs) and Late Night Levies (LNLs). (It was agreed at Full Council on 26<sup>th</sup> September 2013 that no EMROs and LNLs be introduced for this Authority.)
- The Live Music Act 2012 came into force on 1<sup>st</sup> October 2012 which removed the need for entertainment licences, between 8am and 11pm for a performance of unamplified live music, a performance of live amplified music in a workplace or in an on-licence premises (up to an audience limit of 200 people), provided conditions are met.
- The Licensing Act 2003 (Description of Entertainment)(Amendment) Order 2013 came into force on 27<sup>th</sup> June 2013 which removed the need for entertainment licences, between 8am and 11pm for performances of plays and exhibition of dance (up to an audience limit of 500 people) and indoor sport (up to an audience limit of 1000 people).
- The Licensing Act 2003 (Mandatory Licensing Conditions)(Amendment) Order 2014 came into force on 1<sup>st</sup> October 2014 which tightened up and simplified mandatory conditions on premises licences for Supply of Alcohol, Security Activity, Exhibition of Films, Irresponsible Drink Promotions, Age Policies, Drink Measures, Free Drinking Water and The Ban of the Sale of Alcohol below the Cost of Duty plus VAT.

3.5 Furthermore, the Licensing Committee recommended that in 3.7 of the policy should include a target time of 3 days in which to provide a result of hearings and the policy had been amended accordingly

3.6 The timetable of events planned for the transition of the Licensing Policy across Gwent are as follows:-

23 Dec 2014	Send out letters for consultation and put on website
Jan-March 2015	Consultation on Licensing Act Policy
20 Jan 2015	First draft of Policy to the Licensing and Regulatory Committee
21 April 2015	Final Draft, results of consultation to the Licensing and Regulatory Committee
14 May 2015	Policy report to Full Council

The Draft Licensing Policy is attached to this report in Appendix A.

**4. REASONS:**

- 4.1 The policy is necessary to guide consistent decisions and takes account of guidance.
- 4.2 There is a need to take account of collaborative approaches
- 4.3 To ensure that applications with no relevant information to consider can be dealt with without unnecessary delay.
- 4.4 To enforce the provisions of the Licensing Act 2003 effectively.

**5. RESOURCE IMPLICATIONS:**

No resource implications identified.

**6. CONSULTEES:**

The Chief Officer of Police, the Fire Authority, licensed premises holders, club certificate holders, personal licence holders and their representatives. Gwent Licensing Forum. Consultation will also take place with relevant business and resident representatives via notification of the revised Policy on the Council's website. Similarly, County Councillors, Town and Community Councillors and Solicitors that have previously been involved in licensing matters have been consulted.

**7. BACKGROUND PAPERS:**

Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003 – Home Office, dated March 2015

**8. AUTHOR:**

Linda O’Gorman  
Principal Licensing Officer

**CONTACT DETAILS:**

Tel: 01633 644214

Email: [lindaogorman@monmouthshire.gov.uk](mailto:lindaogorman@monmouthshire.gov.uk)





monmouthshire  
sir fynwy

# Licensing Act 2003 Draft Policy Statement 2015

Revision 21<sup>st</sup> April 2015

Further information can be obtained from:

Licensing Section

Monmouthshire County Council

The Drama Centre

Pen-y-Pound

Abergavenny

NP7 5UD

Tel: 01873 735420

Email: [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)

Website: [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing)

This policy can also be made available in Welsh or large print on request to the Licensing Section.

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## 1. Introduction

- 1.1 The Licensing Act 2003 requires the Council, in fulfilling its role as the Licensing Authority, to publish a “Licensing Policy” that sets out the policies the council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This is that statement of policy prepared in accordance with the provisions of the 2003 Act and the latest version of Home Office Guidance issued under section 182 of the Act.
- 1.2 Monmouthshire County Council (“the Council”) is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, and personal licences in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. Throughout the document, the Council will be referred to as the Licensing Authority, where appropriate to prevent confusion between this role and the other functions carried out by the Council.
- 1.3 This policy sets out how applications for licences, which are required by the Licensing Act 2003, will be considered by the Licensing Authority.
- 1.4 In developing this licensing policy, the advice of bodies such as Local Government (LG), the [Welsh] Local Government Association ([W]LGA) and various trade associations have been taken into account wherever possible. Where appropriate, the Policies of other Gwent authorities have also been taken into account, in order to achieve uniformity wherever possible and to help ensure the integration of the various policies over a wider geographical area. Other Corporate policies adopted by the Council have also been taken into account, and these will be referred to throughout this document as appropriate.
- 1.5 The Equalities Act 2010 introduced measures to tackle discrimination encountered by disabled people in certain areas including employment, and access to goods, facilities and services. The applicant shall have regard to this legislation. However, the Licensing Authority will not use licensing to pursue such issues, other than where supported by legislation and accepted good practice.
- 1.6 Monmouthshire County Council has a legal obligation to comply with all legislation that promotes equality it has a policy in place to promote equality to all. The Planning and Public Protection Service Area has its own equalities framework which is available for inspection on our website. Licensing of persons and premises under the Licensing Act 2003 will actively promote

equality of service and enforcement to all members of the community.

- 1.7 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with such a right. The Licensing Authority will have regard to the Human Rights Act when considering any licensing issues, and particularly in respect of the way in which applications are considered and enforcement activities are carried out.
- 1.8 Each application will be considered on its individual merits, and in the light of this Policy
- 1.9 The Licensing Authority acknowledges that it may need to depart from this Policy and from the guidance issued under the Act in individual and exceptional circumstances, and where the case merits such a decision in the interests of the promotion of the licensing objectives. Any such decision will be taken in consultation with the appropriate legal advisors for the Licensing Authority, and the reasons for any such departure will be fully recorded.
- 1.10 The licensing policy will not seek to regulate matters which are provided for in any other legislation and will seek to complement such regimes e.g. planning, health and safety, employment rights, fire safety, etc.
- 1.11 The Licensing Authority wishes to encourage licensees to provide a wide range of entertainment activities in Monmouthshire throughout their opening hours and to promote live music, dance, theatre, etc. for the wider cultural benefit of the community.
- 1.12 This Licensing Authority will update and publish a new Licensing Policy whenever necessary but in any case **within five years** of the date of this Policy, and will fully consult with partners, trade associations and residents groups as appropriate at that time, any representations received will be considered at that time. However where updates are required due to changes in national legislation, statutory guidance or contact details the council reserves the right to amend this policy without consultation where it is necessary to ensure the policy reflects national legislation or statutory guidance.
- 1.13 This policy revision will take into account the following matters in its re-drafting.
- The amendment's to the Licensing Act 2003 made by:
    - ❖ The Police Reform and Social Responsibility Act **2011**
    - ❖ The Live Music Act **2012**
    - ❖ Statutory instruments laid under the above legislation

## 2. Profile of the County

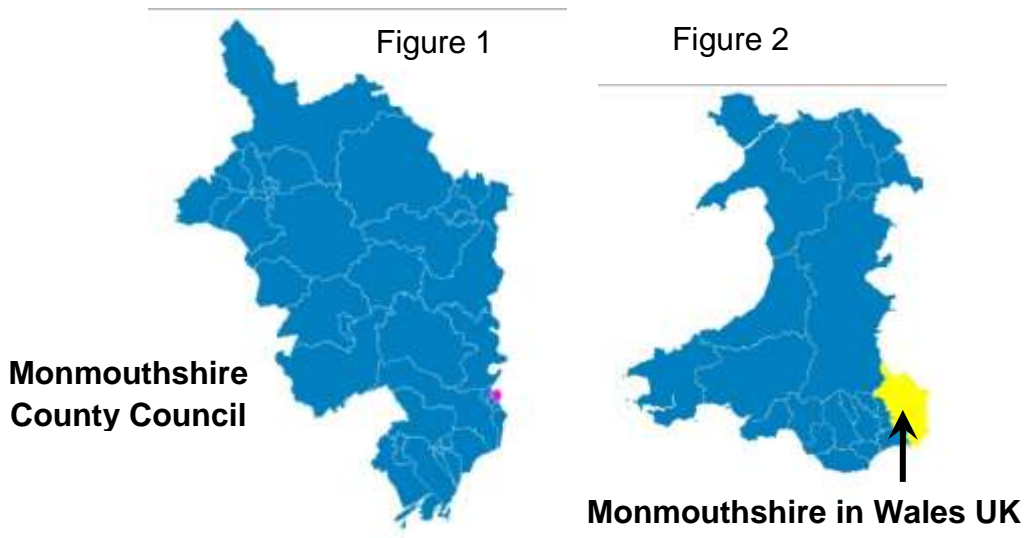
### The County of Monmouthshire

The Monmouthshire County has a population of approximately 92,100 and is mainly rural in character. The five main towns of Monmouth, Abergavenny, Caldicot, Chepstow and Usk are surrounded by numerous villages, each with their own individual character.

There are a few major concentrations of premises in the County providing Regulated Entertainment and/or the retail of sale of alcohol. There are a few private clubs; a cinema and several premises which have late night extensions. However, mobile cinema showings are now active in the County. We have a few theatres in Monmouthshire. Other local venues such as village, community and school halls also provide many of the locations for cultural activities. Several open air concerts/shows provide for the larger cultural events.

There are many public houses in the County outside of the main Towns, many of these in the small, rural villages which provide the focal point for community life. In other cases this focal point may be provided by small stores and shops that sell alcohol. The main late night refreshment premises are located in the main Towns.

Because of the rural nature of the County, premises and events licensed under the Licensing Act 2003 provide an essential contribution to the local economy, through tourism and cultural development.





### 3. Licensing Committee

- 3.1 The Council will appoint a Licensing Committee in accordance with its constitution.
- 3.2 A Licensing Committee shall establish Sub-Committees (panels) consisting of three Members of the Committee, to consider applications where representations have been received from any person and/or Responsible Authorities.
- 3.3 The Licensing Committee will also sit to determine applications not associated with the Licensing Act 2003, such as taxi and private hire vehicle licensing.
- 3.4 In the interests of good governance, where a Councillor who is a Member of a Licensing Committee or a Licensing Sub-Committee has had a direct or indirect pecuniary or personal interest in any matter before them they will be disqualified from any involvement in the decision-making process affecting the premises licence. A Councillor will not sit on a Sub-Committee to consider an application within their 'Ward'.
- 3.5 The Licensing Sub-Committee will refer to the Licensing Committee any matter it is unable to deal with because less than three members are able to consider the matter before the Sub-Committee.
- 3.6 The Licensing Committee shall refer to the 'Licensing Authority' [the Council], any matter it is unable to deal with because less than the quorum of three Members are able to consider the matter before the Committee.
- 3.7 Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied with reasons for the decision. A summary of the decision **to be provided in a target time of three days, to be displayed on the Council's website, or as soon as possible thereafter**, where it will form part of the statutory licensing register.
- 3.8 The Council's Licensing Officers will deal with all licence applications where either no relevant representation has been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 3.9 A periodic report will be made to Licensing Committee on the exercise of delegated powers.

- 3.10 The Council will ensure that members and relevant officers are appropriately trained to carry out their duties under the Act.
- 3.11 Matters in respect of the Licensing Act 2003 are to be dealt with as specified in the council's scheme of delegation under its constitution.

#### **4. Fundamental principles**

- 4.1 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions may be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees.
- 4.2 When considering these conditions, the Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 4.3 In this respect, the Licensing Authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues that can occur away from the licensed premises, including:
- Planning controls;
  - On-going measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
  - Designation of parts of the County of Monmouthshire as places where alcohol may not be consumed publicly;
  - Regular liaison with police on law enforcement issues regarding disorder and antisocial behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk, confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises;
  - The power of the police, other responsible authority or interested party to seek a review of the licence or certificate.

#### **5. Zoning and licensing hours**

- 5.1 Licensing Authority, through the exercise of its licensing functions shall not seek to restrict the trading hours of any particular premises unless it is considered appropriate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits.
- 5.2 In the absence of any specific reasons linked to the licensing objectives, the Licensing Authority will not seek to restrict licensed retail outlets ability to sell alcohol for consumption off the premises throughout their general trading hours. A possible example of an occasion when a limitation could be considered would be following Police representations that a shop was known to be a focal point for crime and disorder.
- 5.3 The Licensing Authority recognise that providing consumers with greater choice and flexibility is an important consideration and that in some circumstances flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided, which in turn can reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which can lead to crime, disorder and disturbance.
- 5.4 The Licensing Authority also acknowledges that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists.
- 5.6 The Licensing Authority will however, where its discretion is engaged, always carefully balance the considerations in 5.3 and 5.4 above against its duty to promote the licensing objectives and protect the rights of residents and businesses.
- 5.7 The Licensing Authority also notes the Government's guidance that there is no general presumption in favour of lengthening licensing hours and that the four licensing objectives should be paramount considerations at all times. Where there are relevant representations against an application and the Licensing Committee believes that granting the licensing hours proposed would undermine the licensing objectives then it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 5.8 Irrespective of the hours of operation granted for a premises under any licence under the Act, the premises operators should ensure that they comply with any limitation on hours imposed under any other relevant legislation in force - for example Planning law, Sunday Trading Act 1994 or Christmas Day (Trading) Act 2004.

- 5.9 The power to make an Early Morning Restriction Order (EMRO) can be considered by the Council alongside any Cumulative Impact Policy, details regarding these powers can be found in section 33 and 34 of this policy.
- 5.10 Whilst the licensing authority accepts that flexible licensing hours may reduce crime, disorder and anti-social behaviour by allowing for a more gradual dispersal of customers, experience shows that in the City/ town centre areas, the majority of new entrants request opening hours to match competitors.
- 5.11 Applicants are encouraged to include in their operating schedule not only the standard hours during which they wish to carry on licensable activities, but also special occasions such as bank holidays when they may wish to trade for an additional hour or two. Catering for these types of occasion will reduce the need to make variation applications.
- 5.12 There is no automatic special provision for New Year's Eve, therefore if applicants wish to take advantage of longer trading hours over this period this should be included in the operating schedule.

## **6. Commercial demand**

- 6.1 The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for the Licensing Authority, such matters being a specific consideration for the local planning authority taking into account the demands of the licensed trade and market demands

## **7. Alcohol Harm**

- 7.1 In June 2007 "Safe, Sensible, Social – The Next Steps in the National Alcohol Strategy" was published. This strategy covered England but was prepared in discussion with the Welsh Government and reflects the common themes within Welsh policies aimed at tackling the harm caused by alcohol misuse.
- 7.2 The Welsh Government in 2008 published a new substance misuse strategy, entitled "Working Together to Reduce Harm". It is a 10 year strategy which aims to set out a clear national agenda for tackling and reducing the harms associated with substance misuse in Wales.
- 7.3 In 2010, the Government outlined plans to overhaul the current licensing regime, in order to give more power to local authorities and police, to help

them deal with alcohol-related crime and disorder, while also promoting responsible business published. A consultation document entitled "Rebalancing the Licensing Act - a consultation on empowering individuals, families and local communities to shape and determine local licensing" was published and resulted in additional legislation to assist regulators to control the sale and supply of alcohol and the public to make representations about licensed premises.

- 7.4 Mandatory conditions have been imposed on all premises licenses and Club premises certificates as they are commenced, these are designed to reduce the instances of unacceptable drinking promotions and other activities that have been classed as irresponsible. The licensing Authority will closely monitor premises to ensure these conditions are followed by licence holders.

## **8. Drugs**

- 8.1 The Licensing Authority recognises that drug misuse is not something that is relevant to all licensed premises, however it is committed to the reduction and eradication where possible of drugs from licensed premises as part of its role in promoting the crime and disorder licensing objective. The licensing authority expects all licence holders to actively support this aim in the way that they plan, manage and operate premises.
- 8.2 If relevant representations are received to an application for grant or variation of a licence special conditions may be imposed to support the prevention of the illegal supply or use of controlled drugs. Advice on conditions will be sought from the police or any other relevant organisation involved in the control of controlled drugs or the support and/or treatment of drug users.
- 8.3 In premises where drug misuse is problematic and where any responsible authority or other person apply for a review of the licence, the licensing authority will consider this as being very serious and will give appropriate consideration to the full range of options available, including suspension and revocation of the licence in accordance with the statutory guidance issued by the secretary of state. The licensing authority recognises that each case is individual and will be decided on its own facts and specific merits
- 8.4 The sale or use of new psychoactive substances (NPS) (so called legal highs) at alcohol licensed premises. The council will consider any issue with NPS in line with current legislation and government policy.

## **9. Licensing Objectives**

9.1 The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the licensing objectives. The licensing objectives (of which each one is of equal importance) are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

9.2 It is recognised that the licensing function is not the primary method of securing the delivery of these objectives. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the police, local businesses, licensees and local people towards the promotion of the objectives.

## **10. Prevention of crime and disorder**

10.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

10.2 The Licensing Authority will expect operating schedules (see section 28) to satisfactorily address these issues from the design of the premises through to the day-to-day operation of the business. Details of the factors that will need to be considered as part of the operating schedules are given in the Licensing Policies and matters for consideration when deciding applications, which are attached in the annex to this policy and in the Guidance notes for applicants.

10.3 Applicants are recommended to seek advice from the Licensing Authority's licensing officers and the police, as well as taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules.

10.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under section 17 of the Crime and Disorder Act 1998 to exercise its various functions with due regard to the likely effect of the exercise on those functions on, and the need to do all it reasonably can to prevent, crime and disorder in the County of Monmouthshire.

## **11. Prevention of public nuisance**

- 11.1 Licensed premises can have significant potential to impact adversely on persons in the vicinity and further afield through public nuisances that arise from their operation.
- 11.2 Subject to case law the Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the vicinity of a licensed premises.
- 11.3 Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance.
- 11.4 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:
- they are situated in a residential or noise sensitive area; or
  - extended opening hours are proposed.
- 11.5 The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right.
- 11.6 When addressing the issue of prevention of public nuisance in their operating schedule, the applicant may identify steps to show that those factors that impact on the prevention of public nuisance objective have been considered see appendix A.

## **12. Public safety**

- 12.1 The Licensing Authority will expect operating schedules to satisfactorily address issues concerning public safety, and applicants are advised to seek advice from various organisations, such as the health and safety enforcement officers, South Wales Fire and Rescue Service etc., before preparing their plans and schedules, particularly where regulated entertainment is to be provided.

- 12.2 The Licensing Authority will encourage applicants to conduct a risk assessment of the premises and/or activity. The authority recommends that specialists, e.g. a qualified safety officer, should be consulted to assist with the assessment.
- 12.3 Heddlu Gwent Police is promoting the use of polycarbonate drinking vessels to reduce the injuries caused by glass drinking vessels. The council supports this initiative.
- 12.4 In order to prevent misunderstandings with conditions already imposed on licences that specify that toughened glass drinking vessels must be used in some circumstances. This condition will be taken to include approved polycarbonate drinking vessels. This will negate the need for licence holders to apply for variations to conditions on those licences.

### **13. Protection of children from harm**

- 13.1 Nothing in this statement of policy shall limit or require access of children to premises unless there is an overriding requirement of necessity to prevent harm to children. Areas that will give rise to particular concern are highlighted elsewhere in this policy.
- 13.2 With the exception of the restrictions specified in Section 145, the 2003 Act does not prohibit children from having free access to any licensed premises. However, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from harm.
- 13.3 The Licensing Authority will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual premises or club.
- 13.4 The 2003 Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 13.5 The Chief Officer Social Care and Housing for the authority will be consulted on issues relating to protecting children from harm.



## 14. Rights of representations

- 14.1 The Licensing Authority will expect applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community, in order that those with a right to make representations or objections are able to fully assess the factors that may affect them.
- 14.2 Relevant representations may be made by a responsible authority, other persons or organisations representing them, but they should state whether they are making a representation on their own behalf or on behalf of another person.
- 14.3 Amendments to the Act has inserted the term 'other person' to replace 'interested party' as someone who can make representations, it also removed the vicinity test for residents and the specific term of councillor. This opens up the range of persons who may make representation and includes for example the following:-
- Residents living near the premises
  - Persons with an interest in the premises or locality
  - Local councillors
  - Businesses with an interest in the premises or locality.
  - Organisations with an interest in the locality, premises or licensable activities.

The council will have to decide if the representation is relevant and/or reasonable, and in making that assessment will assess the person or organisation making the representation and their relationship to the premises and or vicinity.

- 14.4 Relevant representations will be taken as those that relate to the fundamental principles of the Licensing Act, any organisation or individual wishing to object to any application will therefore need to state whether they are doing so on the grounds of:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance;
  - The protection of children from harm.

- 14.5 Unreasonable, frivolous and vexatious representations will be disregarded. Representations that have been made and considered elsewhere, for example as an objection to a planning application, may also be disregarded where consideration of such representations would be duplication.

## 15. Responsible authorities

- 15.1 The Licensing Act 2003 as amended specifies who is responsible authorities that may make representations on applications or apply for the review of a premises licence or club premises certificate, and they are:

- The Chief Officer of Police
- The Fire Authority
- The enforcing authority for Health and Safety at Work
- The local planning authority
- The local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health
- The local weights and measures authority
- The Director of Social Services and the body representing matters relating to the protection of children from harm, currently the Local Safeguarding Children Board
- In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board
- **The Local Health Board**
- The Licensing Authority (The Council)

## 16. Other persons

- 16.1 **Changes to the Licensing Act 2003 by virtue of the Police Reform and Social Responsibility Act 2011 have now removed the test of “vicinity” from the 2003 Act and as a consequence, the categories of “interested party” no longer exist.**
- 16.2 Therefore, any person is able to make representations in relation to certain types of applications as an “Other Person” However; all representations must relate to the licensing objectives and may not be frivolous or vexatious.

## 17. Integrating strategies

17.1 There are a range of strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities, when carrying out its functions the Local Authority has duties, responsibilities and considerations under other legislation and strategies, for example:

- a) Crime and Disorder Act 1998 (in particular obligations under section 17 relating to the prevention of crime and disorder);
- b) The European Convention on Human Rights, given effect by the Human Rights Act 1998;
- c) Criminal Justice and Police Act 2001;
- d) Violent Crime Reduction Act 2006;
- e) Policing and Crime Act 2009;
- f) Police Reform and Social Responsibility Act 2011
- g) **Anti-Social Behaviour, Crime and Policing Act 2014 (in particular the Public Space Prevention Order to control the consumption of alcohol in a public place outside licensed premises);**
- h) Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000); (e) Anti-Social Behaviour Act 2003 (in particular powers available under sections 40 and 41 relating to the closure of premises on the grounds of public nuisance caused by noise);
- i) Environmental Protection Act 1990 (as amended);
- j) Noise Act 1996;
- k) Health Act 2006;
- l) Health and Safety at Work Act 1974;
- m) Clean Neighbourhoods and Environment Act 2005 (including powers for the Local Authority to issued fixed penalty notices to licensed premises emitting noise that exceeds the permitted level between 11pm and 7am);
- n) Sunday Trading Act 1994
- o) Christmas Day (Trading) Act 2004
- p) Safety at Sports Grounds Act 1975
- q) Public Health Act 2006
- r) Any National Alcohol Strategy
- s) The Council's published procedure for dealing with petitions and its obligations under the Local Democracy, Economic Development and Construction Act 2009;
- t) The Council's published policy on Safeguarding Children
- u) Equality and diversity obligations; and
- v) European Union Services Directive.

17.2 The premises operators are normally responsible for compliance with any other statutory requirements which may apply for example the Regulatory

Reform (Fire Safety) Order 2005.

- 17.3 The Licensing Authority will as far as possible seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate or proportionate to impose the same or similar duties on the premises licence holder or club. Once the discretion of the Licensing Authority is engaged, it is only where additional and supplementary measures are appropriate to promote the licensing objectives that appropriate and proportionate conditions will be attached to a licence.
- 17.4 Other Local Authority and Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them.
- 17.5 For example, the Licensing Authority will liaise closely with the local Safer Neighbourhood Teams and evaluate data provided by the local health board to identify trends to ensure that the Local Authority can develop effective strategies that take full account of local crime and disorder issues.
- 17.6 It is the Local Authority's intention that it will, through its Licensing Committee monitor how these matters, set above, impact on the Authority's licensing and other functions, in order that it may seek to co-ordinate and integrate its licensing function with other relevant strategies.
- 17.7 The Local Authority may, in appropriate circumstances, consider seeking from the Licensing Authority premises licences in its own name for its own public spaces within the community. This may assist with the promotion of broader cultural activities and entertainments.
- 17.8 In respect of cultural strategies the Licensing Authority will, for example through periodic consultation with local Leisure and Cultural Services officers, consider whether the provision of live music and cultural activities and entertainments are being deterred by local licensing requirements. Where there is any indication that this is the case, the Licensing Authority may consider investigating how the situation might be reversed, and may if necessary in the light of such investigations consider a revision to the Statement of Licensing Policy.
- 17.9 Where it considers it appropriate to do so, and in order to seek proper

integration of the licensing function, the Licensing Authority may directly or indirectly provide periodic reports to the Planning Authority on the general situation regarding licensed premises in the area, which may include reference to the impact of alcohol related crime and disorder.

### **Relationship with Planning Process**

- 17.10 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority.
- 17.11 It is strongly recommended that prospective licence applicants contact the Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It clearly makes operational sense to ensure that planning and licensing are compatible.
- 17.12 The Licensing Authority wishes to emphasise that the granting by the Licensing & Regulatory Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate.
- 17.13 The Local Authority will aim to properly separate planning, building control and licensing regimes in order to avoid duplication and inefficiency. The Licensing and Planning regimes involve consideration of different (albeit related) matters.
- 17.14 The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, and will not normally:
- cut-across decisions taken by the Local Authority Planning Committee or following appeals decisions taken by that Committee; or
  - impose licensing conditions where the same or similar conditions have been imposed on a planning consent.
- 17.15 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.
- 17.16 Where, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of their planning permission - for which they may be liable to prosecution under planning law (and vice versa where the licensing hours

finish earlier than the planning permission).

## **18. European Services Directive**

- 18.1 The EU Services Directive was introduced to develop a single market for services by breaking down barriers to cross border trade within the EU and making it easier for service providers within scope to set up a business or offer their services to other EU countries. The Directive requires that all notices and authorisations in the scope area are able to be completed electronically and via a “single point of contact”, which in the UK, is the Electronic Application Facility, part of the [www.gov.uk](http://www.gov.uk) website.
- 18.2 Although only regulated entertainment is a “service” as defined under the directive, the Government has extended the electronic application process to all regulated activities under the 2003 Act and to all authorisations and notices with the exception of applications for personal licences, reviews of licences and representations in respect of licence applications. Further information on the application process is provided in the Guidance issued under S182 of the Licensing Act 2003 by the Home Office. It should be noted that the Guidance is regularly updated and therefore references to the above paragraphs may change throughout the life of this policy. You are advised to contact the Home Office for the latest version of the Guidance before submitting any application.

## **19. Personal alcohol licence**

- 19.1 The Council recognises it has very little discretion in the granting of a personal licence. In general provided an applicant is over 18 years of age, has an approved qualification and does not have relevant criminal convictions, the application must be granted.
- 19.2 If an applicant has a relevant conviction the Police can oppose the application. When an objection is lodged a hearing must be held. Applicants with unspent criminal convictions for relevant offences as set out in the Regulations made under the Act are encouraged to first discuss their application with the Council’s Licensing Officer and/or the Police.
- 19.3 At a hearing in respect of an objection to the granting of a personal licence, or the revocation of an existing licence, the Council will consider carefully whether the grant of, or continuation of, the licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of any conviction(s), the period that has elapsed since the offence(s) was/were

committed and any mitigating circumstances. The Council will only grant the application, if it is satisfied that doing so will promote this objective.

- 19.4 Prevention of crime is both an objective of the Licensing Act 2003 and a responsibility of the Council under the Crime and Disorder Act 1998. A person holding a personal licence should be a person who is not only properly qualified but a person who will assist in the prevention of crime. Granting a licence to a person with a relevant criminal record could undermine rather than promote the crime prevention objective.

## **20. Premises licence**

- 20.1 A premises licence is granted in respect of any premises, other than a private members club or similar type premises, authorised for one or more licensable activities, such as the supply of alcohol, late night refreshment or regulated entertainment.
- 20.2 There are some exemptions for the requirement of a licence and they include the exhibition of films for educational or promotional reasons, films shown as part of an exhibition, unamplified live music to audiences of less than 200 people between the hours of 8.00 am and 11.00 pm. Applicants are advised to contact the licensing authority for further guidance.
- 20.3 Where alcohol is supplied, a Designated Premises Supervisor, who must be the holder of a personal licence, must be nominated to authorise the sale of alcohol at the premises.
- 20.4 Premises licences are issued to individuals over the age of 18 years who carry on, or propose to carry on, a business which involves the use of the premises for the activities mentioned above. In addition, charities, health service bodies, educational institutions and persons of other prescribed descriptions may apply for a premises licence.
- 20.5 A licence may be issued subject to conditions, which must be complied with at all times whilst the premise is being used for licensable activities during the times specified in the licence. Failure to comply with the terms and conditions of a licence or if licensable activities are carried out without a premises licence, may result in a fine of up to £20,000 or a term of imprisonment of up to 6 months, or both.
- 20.6 Fees for licences are based on the rateable value of a premises and although

licences are usually issued for an indefinite period, an annual fee is payable.

## **21. Club premises certificate**

- 21.1 A qualifying club, industrial and provident society, friendly society and miners welfare institute that satisfies the criteria specified in part 4 of the Licensing Act 2003 may provide licensable activities for its members and guests of a member that are authorised by a club premises certificate (CPC).
- 21.2 A CPC only authorises the use of a premises for the benefit of its members and their guests and cannot be used to provide licensable activities to non-members. If the premises are to be used to provide licensable activities for non-members an additional authorisation will be required. This may be a premises licence (PL) or a temporary event notice (TEN).
- 21.3 A premises operating under the authorisation of a CPC enjoy special privileges. If a club premises operate under the authorisation of a PL or TEN the privileges do not apply. The privileges include; restricted rights of entry, no need to have a qualified person authorising sales of alcohol. Other considerations would be different taxation rules, advice should be sought from HMRC.

## **22. Temporary event notices**

- 22.1 Temporary Event Notices (TENs) can be used to allow licensable activities to be carried out on a one-off or occasional basis. They are the most appropriate type of authorisation for small-scale, one-off events, such as community, school and charity fundraising events, at which it is intended to:
- sell or supply alcohol;
  - provide regulated entertainment; or
  - sell hot food/drink between 11 pm and 5 am.
- 22.2 Statutory consultees, and others as appropriate, will be notified of all temporary event notices in order that they may give proper advice. Applicants should be aware that these consultees, and a number of other enforcement bodies, may be under a duty to ensure that the event in question meets certain statutory standards. In extreme cases, this could lead to an event being restricted or even prevented from taking place, and it is therefore very important that applicants contact these relevant bodies as soon as possible in order to discuss their plans and establish what standards they will need to



meet.

- 22.3 The Licensing Authority recommends that anyone wishing to submit a Temporary Event Notice, particularly where this involves the provision of regulated entertainment, gives as much notice to the Authority as possible, to ensure that proper advice can be given and any anticipated issues resolved in a planned and timely manner. A period of at least 10 weeks is recommended for this process, and a longer consultation period should be considered for larger events.
- 22.4 The Licensing Authority may notify the Council's Event Safety Advisory Group of any Temporary Event Notices involving the provision of regulated entertainment. This Panel brings together the various enforcement bodies that may be responsible for enforcement in respect of an event, along with any applicants and other organisers, and allows agreement to be reached regarding the way that the event will be organised etc. It is recommended that all applicants submitting a Temporary Event Notice go through the Events Panel when drawing up their Notice, and the Events Panel will be of particular assistance to charities, community and voluntary groups, and other event organisers who may not have access to legal advice or technical knowledge.

## **23. Sale and supply of alcohol**

- 23.1 Licensed premises authorised under the Act for the sale and/or supply of alcohol must consider their responsibilities with regard to who they supply with alcoholic drinks, in particular:
- The sale to persons under the age of 18 years
  - The sale to persons who are delivering to persons under the age of 18 years
  - The sale to persons who are drunk
- 23.2 The council recommend that any licensed premises that is authorised to sell or supply alcohol have a policy that sets out how the sale or supply is controlled and must include staff training requirements. Records should be kept of all training provided and any incidents e.g. a refusal to sell and reasons.

## **24. Regulated entertainment**

- 24.1 The types of regulated entertainment that are required to be licenced under the 2003 Act are listed below:
- a) film exhibitions

- b) performance of a play
- c) indoor sporting events
- d) a boxing or wrestling entertainment
- e) a contest, exhibition or display which combines boxing or wrestling with one or more martial arts (“combined fighting sports”)
- f) live music performances
- g) playing of recorded music
- h) dance performances
- i) entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

24.2 **Though there are exceptions within the Act, these included those changes made by the Live Music Act 2012 and Licensing Act 2003 (Description of Entertainment) (Amendment) Order 2013 removes the licensing requirements for the following:**

1. Film exhibitions for the purposes of advertisement, information, education etc.
2. Film exhibitions that form part of an exhibit put on show for any purposes of a museum or art gallery.
3. Music whether live or recorded, which is incidental to other activities which do not require a licence.
4. Live music as follows:
  - i. amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises;
  - ii. amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment); and
  - iii. Unamplified live music between 8am and 11pm in all venues
5. Use of television or radio receivers for the simultaneous reception and playing of a programme.
6. Any entertainment or entertainment facilities at a place of public religious worship.
7. Entertainment at garden fetes or similar functions unless there is an element of private gain.
  - a) Morris dancing or any dancing of a similar nature or a performance of unamplified
  - b) Live music as a part of such a performance.
  - c) Entertainment on road vehicles in motion.
  - d) performance of a play in front of an audience of 500 persons or less between 8:00 and 23:00
  - e) performance of dance in front of an audience of 500 persons or less

(unless it is relevant entertainment within the meaning of Schedule 3 para 2A Local Government (Miscellaneous Provisions) Act 1982 - i.e. certain forms of sexual entertainment); between 8:00 and 23:00

- f) indoor sporting events in front of an audience of 1,000 persons or less between 8:00 and 23:00.

## **25. Live music, dancing and theatre**

- 25.1 Generally, live music, dancing and theatre type entertainment requires a licence. However, certain exemptions apply to some of these entertainments at specific times of day. For example, unamplified live music at any venue between 8.00 am and 11.00 pm, does not require a licence, neither does the provision of a play to audiences of less than 200 people between the hours of 8.00 am and 11.00 pm.
- 25.2 There are many other exemptions in respect of regulated entertainment and applicants are advised to contact their legal advisor or the Licensing Team before submitting an application for a licence.

## **26. Administration**

The council's licensing team administer all aspects of the Licensing Act 2003, including applications, representations and requests for assistance and advice. The council's website has detailed information on all of the services it offers for licensees, applicants, complainants and all other enquiries. Application information and forms can be downloaded from our website. The licensing teams can be contacted by any of the following means:-

Licensing Section  
Monmouthshire County Council  
The Drama Centre  
Pen-y-Pound  
Abergavenny  
Monmouthshire  
NP7 5UD

E-mail: [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)  
Tel: 01873 735420  
Fax: 01633 644878  
Web: [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing)

## **27. Application procedures**

- 27.1 All application requirements and procedures are specified in the Licensing Act 2003 and regulations made under the Act. Applications and notices are administered by the council's licensing team.
- 27.2 The council's website contains full information and guidance on all applications. The licensing team may be contacted for advice and guidance with an application, including pre-application advice. The council cannot assist to complete an application form; if assistance is needed applicants should contact a professional advisor, e.g. a solicitor or consultant.

## **28. Operating schedule**

- 28.1 All new and variation applications should incorporate an 'operating schedule' which outlines how the premises will be operated. This should include details of how the applicant will promote the four licensing objectives and reduce any potential negative impact from the operation of their business on the local community, depending on the type of premises, location and profile of customers. The proposals contained in the operating schedule will form the main body of the conditions to be applied to the licence, together with any applicable mandatory conditions, any conditions agreed with responsible authorities during the application process and any conditions imposed by a licensing sub-committee where representations have been made.
- 28.2 In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the Licensing Objectives.
- 28.3 The Licensing Authority will provide general advice on the drafting of operating schedules and applicants are strongly recommended to discuss their operating schedules with the Licensing Authority and other Responsible Authorities prior to submitting them.
- 28.4 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises concerned. For premises such as a public house where regulated entertainment is not provided, only a relatively simple document may be required. However for an operating schedule accompanying an application for a major entertainment venue or event, it will be expected that issues such as public safety and the prevention of crime and disorder will

be addressed in detail

28.5 The operating schedule must be set out on the prescribed form and include a statement of the following:-

- Full details of the licensable activities to be carried on at and the intended use of the premises;
- The times during which the licensable activities will take place;
- Any other times when the premises are to be open to the public;
- Where the licence is only required for a limited period, that period;
- Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
- Whether alcohol will be supplied for consumption on or off the premises or both;
- The steps which the applicant proposes to promote the Licensing Objectives.

28.6 For some premises, it is possible that no measures will appropriate to promote one or more of the Licensing Objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be:

- Precise and enforceable
- Be unambiguous
- Not to duplicate other statutory provisions
- Be clear in what they intend to achieve, and
- Be appropriate, proportionate and justifiable.

28.7 To assist applicants the authority has provided a Code of good practice for licenced premises, the current code can be found in Appendix A of this policy. It should be noted the code does not form any part of this policy and the guidance and examples of control measures are simply given to assist applicants in preparing operating schedules and the on-going running of a licenced premises. The code is not exhaustive and is not to be regarded in any way as standard conditions or mandatory requirements.

## **29. Conditions**

29.1 The Licensing Act 2003, as amended, imposes a number of mandatory conditions on licences. The council has the power to impose additional

conditions if they consider that they are appropriate for the promotion of the licensing objectives.

- 29.2 Conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises, activities and/or events provided at the premises. The policy does not provide for any standard, general or blanket conditions, and will not impose disproportionate and burdensome requirements.
- 29.3 Applicants may offer conditions in the operating schedule as part of their application; the council may remove or reword any of these conditions if they are considered to be unclear, ambiguous or unenforceable, with the agreement of the applicant. This will ensure that all parties fully understand their responsibilities to promote the licensing objectives.
- 29.4 The council recognise that they can only impose conditions where relevant representations are received and it is considered appropriate for the promotion of the licensing objectives. Where a responsible authority gives evidence that it is appropriate to impose specific conditions the request will be considered by the council who may suggest the wording of the condition to ensure that it is clear, relevant and enforceable.
- 29.5 When attaching conditions, the council will also be aware of the need to avoid measures that might deter live music, dancing or theatre by imposing costs of a substantial nature, that are not in proportion to the risks.

## **30. Applications where representations are received**

- 30.1 When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.
- 30.2 Representations must be made to the Licensing Authority within the statutory period of 28 days beginning on the day after the relevant application is received by the Licensing Authority. Representations must be made in writing.
- 30.3 Representations can be made either be in support of an application or to express objections to an application being granted. However the Licensing

Authority can only accept “relevant representations.” A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the Licensing Objectives

- 30.4 An example of a representation that would not be relevant would be a representation from a local business person about the commercial damage that competition from a new licensed premise would do to their own business. On the other hand, a representation by a business person that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be a relevant representation.
- 30.5 In other words, representations should relate to the impact of licensable activities carried on from premises on the Licensing Objectives.
- 30.6 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.
- 30.7 Whilst the Licensing Authority expects representations to be evidence based, there is no requirement for a Responsible Authority or other person to produce a recorded history of problems at premises to support their representations, and it is recognised that in fact this would not be possible for new premises.
- 30.8 Responsible authorities are a group of public bodies that must be fully notified of applications and that are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. A full list of contact details for the responsible authorities is provided on the Licensing Authority’s website.
- 30.9 Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each Responsible Authority to determine when they have appropriate grounds to do so.
- 30.10 The Licensing Authority recognises that every Responsible Authority can make representations relating to any of the four Licensing Objectives. However the Licensing Authority would normally expect representations about the promotion of individual Licensing Objectives to come from the most relevant Responsible Authority with expertise in that particular area. For example the Licensing Authority would expect representations about the prevention of crime and disorder to come primarily from the police and representations about the prevention of public nuisance to come primarily from environmental health.

- 30.11 The Licensing Authority recognises that the police should be its main source or advice on matters relating to the promotion of the crime and disorder licensing objective, but also may be able to make relevant representations with regards to the other Licensing Objectives if they have evidence to support such representations.
- 30.12 The Licensing Authority will accept all reasonable and proportionate representations made by the police unless it has evidence that do so would not be appropriate for the promotion of the Licensing Objectives. However the Licensing Authority will still expect any police representations to be evidence based and able to withstand scrutiny at a hearing.
- 30.13 The Licensing Authority recognises Monmouthshire County Council children's services as being the body that is competent to advise it on the licensing objective of the protection of children from harm.
- 30.14 The Licensing Authority recognises that, although public health is not a licensing objective, health bodies may hold information which other responsible authorities do not, but which would assist the Licensing Authority in exercising its functions.
- 30.15 For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information might be relevant to the public safety objective and in some cases the crime and disorder objective.
- 30.16 As a result of the Police Reform and Social Responsibility Act 2011, the Licensing Authority is also now a Responsible Authority and can therefore make representations if it deems it appropriate to do so.
- 30.17 However the Licensing Authority will not normally act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so.
- 30.18 Such parties can make relevant representations to the Licensing Authority in their own right, and the Licensing Authority expects them to make representations themselves where they are reasonably able to do so.
- 30.19 The Licensing Authority also expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other Responsible Authority. Each Responsible Authority has equal standing under



the 2003 Act and may act independently without waiting for representations from any other Responsible Authority.

- 30.20 In cases where a Licensing Authority is also acting as Responsible Authority in relation to the same process, the Licensing Authority will seek to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities.
- 30.21 Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.
- 30.22 The Licensing Authority will also reject as invalid, any representations from other persons that are deemed to be frivolous or vexatious. A representation might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous representations are essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 30.23 Decisions as to the validity of representations will normally be made by officers of the Licensing Authority. In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 30.24 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the authority's corporate complaints procedure. A person may also challenge such a decision by way of judicial review.
- 30.25 Where a notice of a hearing is given to an applicant, the Licensing Authority is required to provide the applicant with copies of the relevant representations that have been made.
- 30.26 The Licensing Authority will normally provide copies of the relevant representations to the applicant in full and without redaction. However in

exceptional circumstances, where a person satisfies the Licensing Authority that they have genuine reasons to fear intimidation or violence if their personal details, such as name and address, are divulged to the applicant, the copies of the representations may be redacted accordingly.

- 30.27 In such circumstances the Licensing Authority will still provide some details to the applicant (such as street name or general location within a street), so that the applicant can fully prepare their response to any particular representation.
- 30.28 Alternatively persons may wish to contact the relevant Responsible Authority or their local Councillor with details of how they consider that the Licensing Objectives are being undermined so that the Responsible Authority can make representations on their behalf if appropriate and justified.
- 30.29 Further guidance on making representations is provided on the Licensing Authority's website.

## **31. Exercise and delegation of functions**

- 31.1 The Licensing Act 2003 requires local authorities to act as the Licensing Authority and to set up a Licensing Committee to be responsible for all matters relating to the Licensing Act 2003. The Licensing Committee further delegate to Licensing Sub Committees (Panels), or by one or more officers acting under delegated authority.
- 31.2 It is considered that many of the functions will be largely administrative in nature with no perceived areas of contention. In the interests of efficiency and cost effectiveness these will, for the most part, be carried out by officers.
- 31.3 The Schedule below sets out the presumed delegation of functions and decisions. Notwithstanding this presumption of delegation, the Council reserves the right to refer any matter to the Licensing Committee or sub-committee.

### **31.4 Schedule of delegation of licensing functions and decisions**

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Licensing Sub-Committee (panels)</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made

Application for a personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made and not withdrawn	If no relevant representation made or representation withdrawn
Application for provisional statement		If a relevant representation made and not withdrawn	If no relevant representation made or representation withdrawn
Application to vary premises licence/club premises certificate		If a relevant representation made and not withdrawn	If no relevant representation made or representation withdrawn
Application to vary designated premises supervisor		If a police objection	All other cases
Application for a minor variation			All cases
Application to vary a licence on a community premises to include alternative licence condition		If police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether			All cases

a complaint is irrelevant frivolous vexatious etc.			
Determination of a police or environmental health objection to a temporary event notice		In all cases if not withdrawn.	
Suspension of licences following non-payment of annual fees			All Cases

## 32. Reviews of licences

32.1 The Council can only review a licence where it is alleged by a “responsible authority”, or other person that the licensing objectives are being breached. Responsible authorities will aim to give licence holders early warning of any concerns identified at the premises. Only responsible authorities or other persons (e.g. local residents, local organisations and councillors) can apply for the review of a licence; and determine its outcome at a hearing where an evidential basis for allegations made will be submitted. It views particularly seriously applications for the review of any premises licence which involves the:

- use of licensed premises for the sale and distribution of controlled drugs and the laundering of the proceeds of drugs crimes;
- use of licensed premises for the sale and distribution of illegal firearms;
- evasion of copyright in respect of pirated films and music;
- underage purchase and consumption of alcohol;
- use of licensed premises for prostitution or the sale of unlawful pornography;
- use of licensed premises for unlawful gaming;
- use of licensed premises as a base for organised criminal activity;
- use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- use of licensed premises for the sale of smuggled tobacco or goods;
- use of licensed premises for the storage or sale of stolen goods;
- the police being frequently called to attend to incidents of disorder;
- prolonged and/or repeated instances of public nuisance;

- serious risk to public safety have been identified and the management is unable or unwilling to correct;
- serious risk to children.

32.2 The Licensing Sub-committee will consider all evidence provided at the hearing and apply appropriate weight to that evidence when making their decision.

32.3 The licensing sub-committee will consider all of the sanctions available to it provided for in the Act and guidance, including taking no action if appropriate. In cases where a licensing objective is seriously undermined, that revocation of the licence, even in the first instance, will be considered where appropriate to ensure the licensing objectives are promoted.

32.4 In cases where a licensing objective is seriously undermined, the revocation of the licence, even in the first instance, will be seriously considered where appropriate to ensure the licensing objectives are promoted.

### **33. Cumulative impact policy**

33.1 Cumulative impact is defined in the guidance as „the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises in the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.”

33.2 The cumulative impact of the number, type and density of premises in particular areas, such as the town centre may lead to them becoming saturated with premises of a certain type making them a focal point for large groups of people together leading to severe or chronic problems of public nuisance and anti-social behaviour. The licensing authority may consider the adoption of a **cumulative impact policy** of refusing new premises authorisations within a defined area or areas if it is satisfied that it is appropriate and necessary to include an approach to cumulative impact in its Licensing Policy Statement. It will take the decision only after it is satisfied that there is evidence to support such a decision.

33.3 The effect of adopting a cumulative impact policy of this kind is to create a rebuttable presumption if relevant representations to that effect are received, that applications for new premises authorisations or club premises certificates or material variations will normally be refused, unless it can be demonstrated

that the operation of the premises involved will not add to the cumulative impact already being experienced. What constitutes a material variation will depend upon the policy in place and the reasons for the area being designated as suitable for adoption of a special policy.

- 33.4 Applicants would need to address the cumulative impact policy issues in their Operating Schedules in order to rebut such a presumption. Any cumulative impact policy will stress that the presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the local authority may lawfully consider giving effect to its cumulative impact policy.
- 33.5 The Licensing Authority recognises that many different kinds and styles of premises sell alcohol, serve food and provide entertainment. It recognises that some applications in cumulative impact areas will be unlikely to add significantly to the problems arising from saturation. Where it can lawfully make decisions on applications in cumulative impact areas, it will have full regard to the impact different premises may have on the local community.
- 33.6 The Licensing Authority must grant any application in a cumulative impact policy area subject only to conditions that are consistent with the operating schedule submitted by the applicant if it receives no relevant representation.
- 33.7 The Licensing Authority will review cumulative impact policies regularly to assess whether they are needed any longer or need expanding.
- 33.8 The absence of a special saturation/cumulative impact policy does not prevent any responsible authority or interested party making evidence based relevant representations on a new application for the grant of an authorisation on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 33.9 Having had regard to the guidance referred to above, consulted upon the issue, taken into account the views of respondents and considered the evidence the council has adopted a cumulative impact policy in respect of Chepstow Town Centre.
- 33.10 Reasons for the Policy

Gwent Police produced evidence to support their request that Chepstow Town

Centre be designated a cumulative impact area. It remains at saturation point and the Police produced evidence for extending the area, which has a significant concentration of alcohol led late night venues, witnesses a high number of assaults and other related crime and disorder including public nuisance and risk to public safety. The policy will apply to further applications for the grant of new licenses or significant variations of existing licenses in respect of premises that primarily sell alcohol for consumption on the premises, other late night uses, restaurants and take away outlets. The main focus of the policy is likely to be on alcohol led establishments and premises that keep customers in the area at times when the promotion of the licensing objectives is most challenging (for example late night refreshment from “fast food” outlets.

33.11 The adoption of such policies should not be understood to be an absolute bar to new authorisations being issued or granting significant variations to existing licenses. Applicants are entitled to seek any of the permissions available to them in the Act and the Council does not in this policy intend to prevent applicants from exercising their statutory rights. Each application will be considered on its own merits, within the constraints of the legislation and having due regard to the relevant guidance and policy.

33.12 These cumulative impact policies are intended to be strictly applied. Applications which would seek to be allowed as an exception to a special cumulative impact policy will generally be favourably considered if they are judged to encourage a greater variety of types of entertainment than currently exists in these areas; in particular, the Licensing Authority welcomes those proposals which can be viewed as more family friendly and which offer a wider range of entertainment than that which is currently available because it is considered that such proposals will not add to the stress in the area and undermine the licensing objectives.

33.13 However, matters such as;

- the premises will not add people to the area;
- longer hours will create slower dispersal;
- history of good management;
- premises are well run;
- premises application is small in nature
- alcohol is not sold;
- clientele are a cut above the usual;

will not be considered exceptional circumstances, as the issue is crime and

disorder/public nuisance in the area as a whole rather than that associated with individual premises and the promotion of the licensing objectives.

- 33.14 Existing licensees who wish to materially alter and/or extend the premises to which the authorisation relates are required to seek a new authorisation. This is because the Act prohibits the use of a variation application to substantially alter the premises to which the authorisation relates. Where the only change is to the physical extent or material layout of the premises themselves (i.e. in the absence of additional features such as change in style of operation, capacity etc) it is highly unlikely this would trigger the special policy, but of course this policy cannot restrict the right of any responsible authority or interested party to make relevant representations in that regard and if such are forthcoming they will be diligently considered. Where other change is envisaged then the presumption may arise. Applicants in such circumstances are entitled to seek a Provisional Statement.
- 33.15 The geographical area for the Cumulative Impact Policy in Chepstow is attached as Appendix B.

#### **34. Early morning restriction orders**

- 34.1 Whilst the Licensing Act 2003 introduced a single integrated scheme for licensing premises used for the sale or supply of alcohol, regulated entertainment and late night refreshment, one of its primary purposes has been to tackle problems associated with misuse of alcohol.
- 34.2 It has now been recognised by Government, through statutory guidance, that longer hours were not necessarily an answer to all problems. As a result licensing authorities have been given greater discretion in their approach to the management of licensed premises in their areas. On 31st October 2012 amendments to the Police Reform and Social Responsibility Act were implemented, which allows licensing authorities to adopt new measures for the management of their night time economies
- 34.3 One of these measures is an Early Morning Restriction Order (EMRO), which allows local authorities to look at restricting the sale of alcohol at a specified time between the hours of midnight and 6:00am.
- 34.4 EMROs are intended to deal with alcohol-related crime & disorder, anti-social behaviour, and serious public nuisance, which is not directly attributable to



licensed premises. LAs are encouraged to look at the relationship between their existing cumulative impact area, if one is in place, and a proposed EMRO area;

- 34.5 An EMRO restricts the time within which alcohol can be supplied. Alcohol supply can be prohibited between 0000-0600 and applies to Premises Licences, Club Premises Certificates and Temporary Event Notices. There are no exceptions save that which authorise supply of alcohol to residents with overnight accommodation via minibars and room service;
- 34.6 An EMRO can apply to a specific area or even single street – it does not need to be borough-wide. It can apply to specific days of the week, can specify different times for different days of the week, and can apply to limited periods of the year or for an unlimited period. But it cannot apply on New Year's Eve/New Year's Day;
- 34.7 EMROs do not affect authorised hours for regulated entertainment or late night refreshment
- 34.8 The adoption of an EMRO is subject to a process involving the collection and analysis of relevant evidence and a consultation exercise with the public and holders of licences and/or club premises certificates. The decision to adopt an EMRO has to be taken by a meeting of the Council;
- 34.9 EMROS must be periodically reviewed to ensure they remain appropriate to promote the licensing objectives and can be varied or revoked via the same process as adoption
- 34.10 Alcohol supply during the time when an EMRO is in force is treated as a Section 136 offence under LA03 (unauthorised licensable activity).
- 34.11 Alcohol supply during the time when an EMRO is in force is treated as a Section 136 offence under LA03 (unauthorised licensable activity).
- 34.12 The council currently does not have an EMRO and resolved not to adopt one at its Full Council meeting held on 26<sup>th</sup> September 2013. If considered necessary they will conduct a full consultation before the provision is adopted.

## **35. Hearings**

- 35.1 Applications for licences and certificates will be determined following

consultation with relevant responsible authorities. Where no representations are received, they will be issued administratively by the Licensing Team, however, contentious applications must be referred to the Council's Licensing Sub-Committee (panel) for determination, unless it is agreed by all parties that a hearing is not necessary

- 35.2 The period of notice of a hearing that must be given to all relevant parties, and the information which may be disclosed, varies depending on the type of application, subject to regulations. A Licensing Sub-Committee (panel) of three Elected Members will determine a contentious application and will either grant a licence, grant a licence with amendments or refuse an application. Any party can appeal against the Council's decision to a Magistrates' Court.
- 35.3 At any time during the period of a licence, any responsible authority or other person can ask for the review of a licence or certificate. All review applications will be determined by the Licensing Sub-Committee.

## **36. Appeals**

- 36.1 Entitlements to appeal for parties aggrieved by decisions of the Council are set out in Schedule 5 of the Act. Other than in the case of personal licences, an appeal has to be made to the local Magistrates' Court. In the case of personal licences, the appeal must be made to the Magistrates' Court for the area in which the licensing authority which has considered the application (or any part of it) is situated.
- 36.2 An appeal has to be instigated by giving notice of the appeal by the appellant to the  
The Clerk to the Justices,  
Newport Magistrates' Court  
The Law Courts  
Faulkner Road  
Newport  
Gwent  
NP20 4PR  
DX 311301 Newport (Gwent) 19,  
Within a period of 21 days beginning with the day on which the appellant was notified by the Council of the decision appealed against.
- 36.3 On determining an appeal, the Court may:
- dismiss the appeal

- substitute any other decision which could have been made by the Council or
- remit the case to the Council to dispose of it in accordance with the direction of the Court.

The Court may make such order as to costs as it thinks fit.

- 36.4 In anticipation of such appeals, the Council will give comprehensive reasons for its decisions. On making findings of fact in its reasons, the Council will ensure that they address the standard of proof and the burden of proof that they have adopted. The Council will also address the extent to which decisions has been made with regard to its statement of licensing policy and the Guidance issued by the Secretary of State under section 182 Implementing the determination of the Magistrates' Courts
- 36.5 Where appropriate, the Licensing Authority will provide applicants and objectors etc. with information concerning their rights of appeal.
- 36.6 Where appropriate, the Licensing Authority will provide applicants and objectors etc. with information concerning their rights of appeal.

### **37. Implementing the determination of the Magistrates' Court**

- 37.1 As soon as the determination of the Magistrates' Courts has been promulgated, the Council will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action [for example, as a result of an on-going Judicial Review]. The Act provides for no further appeal against the determination of the Magistrates' Courts.

### **38. Enforcement**

- 38.1 The Licensing Authority has established joint enforcement protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to low-risk premises, which are shown to be well run.
- 38.2 The Licensing Authority intends that enforcement visits will be made to licensed premises as appropriate, to ensure that any conditions imposed as part of the licence are being complied with. These visits may be either proactive planned inspections based on the risk presented by the premises,

history of non-compliance etc., or reactive visits as a result of complaints.

38.3 In general, action will only be taken in accordance with agreed enforcement principles and in line with the Council's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

38.4 In general, action will only be taken in accordance with agreed enforcement principles and in line with the Council's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

### **39. Fees Generally**

39.1 All fees are currently set by statute and the council is obliged to charge the fees as detailed in the Fees Regulations.

39.2 The Police Reform and Social Responsibility Act 2010 have provisions to give councils to set their fees locally, however at this time the relevant sections have not been commenced. When commenced the councils will calculate fees to recover the costs of the service and then consult on their implementation before asking the Licensing Committee to approve any changes.

### **40. Annual Fees for Premises Licences and Club Premises Certificates**

40.1 The Licensing Act 2003 and regulations made under the Act set out requirements for annual fees and require that the fee is paid on the due date which is every year on the anniversary of the original grant of the licence. The fee is currently set by regulations, however amendments made by the Police Reform and Social Responsibility Act 2010 will when commenced give the council the ability to set fees locally to recover costs associated with the administration and compliance of the Act.

### **41. Licence suspension for non-payment of annual fee**

41.1 Amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2010 give councils the power to suspend premises licences and club premises certificates where the annual fee required by regulations is not paid.

- 41.2 The council will suspend any licence or certificate where the required fee is not paid by the 'due date', which is annually on the anniversary of the date that the licence was first granted. The council will follow the below procedure:-
- 41.3 Upon notification/discovery that an annual fee is not paid, the council will give notice to the licence/certificate holder, in writing,
- that the licence/certificate will be suspended 14 days from the date of the notice.
  - It will also state that the suspension will not become effective if the fee is paid prior to the suspension date.
  - If an administration error is claimed, the suspension date may be 21 days from the due date; or the date of suspension on the 14 day notice, whichever is later.
  - A copy of the notice will also be served on the designated premise supervisor/premises manager if they are not the premises licence holder.
- 41.4 If the fee is not paid by the date specified on the notice the licence/certificate will be deemed suspended. The licence/certificate holder and DPS/Manager will be immediately notified of the suspension becoming effective, and informed that the premises may no longer offer any licensable activities until such time as the fee is paid and the suspension lifted. When the full payment is made the council will immediately lift the suspension, and confirm this in writing.
- 41.5 Where a licence/certificate is suspended and licensable activities are provided the council will consider prosecuting the provider for offences under section 136 of the Licensing Act 2003.

## **42. Late night levies**

- 42.1 A Late Night Levy (LNL) is an optional power, introduced by the Police Reform and Social Responsibility Act which allows Licensing Authorities (LAs) to raise a contribution towards the costs of policing the night time economy (NTE) by charging a levy to holders of Premises Licences and Club Premises Certificates authorised to sell alcohol. A LNL must apply across the whole borough and also applies to all on- and off-licences. TENs are not included.
- 42.2 A LNL would require that a levy be paid by those persons who are authorised to sell alcohol between the period specified in the LNL (the 'late night supply

period') regardless of whether they are actually open during that period. This can be no earlier than 0000hrs and no later than 0600hrs, and must be the same period every day;

- 42.3 At least 70% of the Levy must be paid to the Police and Crime Commissioner. There are no restrictions on what the police portion can be used for. The Local Authority portion can be used to tackle alcohol-related crime and disorder and to support management of the NTE in line with the: reduction of crime and disorder; promotion of public safety; prevention of public nuisance; street cleansing;
- 42.4 The implementation of a LNL is subject to public consultation and, if it is to be introduced, must be adopted at a meeting of the Council.
- 42.5 The Licensing Authority may deduct the costs of preparing, publicising & administrating the levy (subject to regulations) before paying the police proportion; however an estimate of these costs must be published on the website;
- 42.6 Licensing Authority's should consider the potential financial risk (eg lower than expected revenue – the police portion must be paid regardless of whether the levy has been collected in full) prior to implementation;
- 42.7 Holders of authorisations affected by the levy may make a free variation application such that they may avoid being affected by the levy. The Licensing Authority should allow at least 2 months to make such applications;
- 42.8 The levy will apply indefinitely however it must be reviewed at regular intervals and may be ceased at the end of a levy year;
- 42.9 The council resolved not to adopt one at its Full Council meeting held on 26<sup>th</sup> September 2013. If considered necessary they will conduct a full consultation before the provision is adopted.

#### **44. Further information**

*Further information about the Licensing Act 2003 and the Council's licensing policy can be obtained from:*

*The Licensing Section  
Monmouthshire County Council  
The Drama Centre*

Pen-y-Pound  
Abergavenny  
NP7 5UD

Tel: 01873 735420

Fax: 01633 644878

E-mail: [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)

Website: [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing)

### **Responsible Authorities**

The Chief Officer of Police  
Licensing Department  
Abergavenny Police Station  
Tudor Street  
Abergavenny  
NP7 5YL  
[robert.hilton@gwent.pnn.police.uk](mailto:robert.hilton@gwent.pnn.police.uk)

Licensing Section  
Monmouthshire County Council  
The Drama Centre  
Pen-y-Pound  
Abergavenny  
NP5 5UD  
[licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)

Chief Fire Officer  
South Wales Fire and Rescue Service  
Forest View Business Park  
Llantrisant,  
Pontyclun  
CF72 8LX  
[Safety-east@southwales-fire.gov.uk](mailto:safety-east@southwales-fire.gov.uk)

Head of Planning  
Monmouthshire County Council  
P O Box 106  
Caldicot  
NP26 9AN  
[planning@monmouthshire.gov.uk](mailto:planning@monmouthshire.gov.uk)

Trading Standards Manager  
Monmouthshire County Council  
P O Box 106  
Caldicot  
NP26 9AN  
[tradingstandards@monmouthshire.gov.uk](mailto:tradingstandards@monmouthshire.gov.uk)

Child Protection Co-Ordinator  
Social and Housing Services  
Monmouthshire County Council  
P O Box 106  
Caldicot  
NP26 9AN  
[kellyturner@monmouthshire.gov.uk](mailto:kellyturner@monmouthshire.gov.uk)

*Environmental Health Manager  
Monmouthshire County Council  
P O Box 106  
Caldicot  
NP5 9AN  
[environmentalhealth@monmouthshire.  
gov.uk](mailto:environmentalhealth@monmouthshire.gov.uk)*

*For applicants wishing to use boats  
for licensable activities must also  
send copies of the application to;  
Maritime and Coastguard Agency  
Cardiff Marine Office  
Anchor Court  
Keen Road  
Cardiff  
CF24 5JW*

*Dr G Richardson  
Aneurin Bevan Health Board  
Mamhilad House  
Mamhilad Park Estate  
Pontypool  
NP4 0YP*

*For HSE enforced and council  
owned premises only:  
Health & Safety Director of Wales  
Government Buildings  
Phase 1, Ty Glas  
Llanishen  
Cardiff CF14 5SH*



## **Appendix A -**

# **Code of Good Practice for Licensed Premises**

### **Introduction**

The Licensing Act 2003 (the Act) focuses on the promotion of four statutory licensing objectives which must be addressed when licensing functions are undertaken. The four licensing objectives are:

- **The prevention of crime and disorder**
- **Public safety**
- **The prevention of public nuisance**
- **The protection of children from harm**

### **Aim of the code**

The aim of this code is to provide applicants and licensees with guidance on good practice for the promotion of the four licensing objectives which are paramount considerations at all times. The code is consistent with the Home Office guidance issued under section 182 of the Act and with the Councils statement of licensing policy. It outlines what the licensing authority and its responsible authority partners expect in practical terms from applicants when completing their operating schedules and from licensees when operating their premises under the terms of a premises licence. Applicants and licensees are expected to make a proactive commitment to preventing problems from occurring at licensed premises through the adoption of this code.

### **Risks associated with licensed premises**

Risks associated with licensed premises can vary dependent on the premises type and characteristics, the design, layout and general environment, the location, the policies in place and the events being held there.

This code identifies many of the possible risks associated with the sale of alcohol and the provision of entertainment or late night refreshment and sets out good practice measures to mitigate those risks. It provides a key mechanism for the promotion of the licensing objectives, for well-run premises and a responsible approach to the provision of alcohol, entertainment and late night refreshment.

It is recognised that not every risk will be relevant to every premises and it is unlikely that any one premises will need to address all of the measures. Indeed some premises may only need to introduce one or two measures or in many cases the premises

already has in place a number of good practices so as to promote the Licensing Objectives.

The code cannot anticipate every possible risk, problem or circumstance that may arise from licensed premises. Neither does the code restrict an applicant or licence holder from promoting the licensing objectives through alternative means.

## **How will the code be used?**

### **Applicants and licensees**

A proactive and preventative approach is a key aspect of good management at licensed premises. The licensing authority therefore expects applicants to have regard to this code when completing their operating schedule. The Licensing authority expects licensees to have regard to this code when considering additional operational measures.

### **The licensing authority and responsible authorities**

The code is not a statutory document but it will be taken into consideration and used by the licensing authority and responsible authorities as follows: when offering advice to applicants either at the design and planning stage ordering pre-application discussions;

- when responding to licence applications where the licensing objectives have not been adequately addressed in the operating schedule;
- as a first point of dealing with licensed premises encountering problems, to raise standards to promote the licensing objectives in those premises and avoid further problems; and
- for the review of licences where there is evidence that licensees have not promoted the licensing objectives.

### **Dealing with problem premises**

Problems or concerns with licensed premises will be identified and flagged up at an early stage and advice will be offered to licensees with a view to improving standards at their premises and to prevent or minimise subsequent problems.

Where problems have been identified, the licensing authority and responsible authorities will agree appropriate measures from the code with the licence holder to be implemented at the premises this sometimes called an “Action plan”. The aim of the

code is to avoid the need for enforcement action such as prosecution or review but it will not replace enforcement action where it is necessary.

### General – all four licensing objectives

This section provides guidance on good practice for the general promotion of all four licensing objectives at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the general promotion of the licensing objectives after a licence has been granted.

Licensees and their staff have responsibility for the effective and safe management of their premises and the promotion of the four licensing objectives. Training is the key to giving licence holders, premises managers and staff the knowledge and skills to deal with and manage risks associated with licensed premises. Training should be provided to all staff and should be about both preventing and managing problems occurring at premises. Training should be regularly updated.

Risk	Good Practice measure
Lack of knowledge or understanding of the Licensing Act 2003	<p><b>Well trained staff</b> will contribute to well-run premises and a responsible approach to the sale of alcohol, provision of entertainment and late night refreshment.</p> <p>Formal qualifications for your staff, either to Personal Licence level or to another appropriate standard recognised by bodies such as the British Institute of Innkeepers (BII) would be preferential.</p> <p>All staff should be advised of licensing law in writing before they are allowed to serve alcohol.</p> <p>Training should also be provided on premises specific policies relevant to the operation of the business.</p> <p>Staff should be briefed on the Licensing conditions attached to a premises licence and fully understand the terms of the licence.</p> <p>A record should be kept of the date and name of person trained or advised and be made available for inspection by the police or licensing authority.</p>

## Prevention of crime and disorder

This section provides guidance on good practice for the prevention of crime and disorder from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of crime and disorder from their premises after a licence has been granted.

The main causes of crime and disorder in licensed premises arise from inadequate security provisions, poor design and layout, the type of event being promoted, overcrowding and customers being drunk or under the influence of drugs. This can result in theft, conflict, violence and anti-social behaviour. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing crime and disorder from their premises.

All applications for new licences and variations should address the steps proposed to prevent crime and disorder and this is best achieved through a premises risk assessment. Alcohol can be a significant contributory factor to levels of crime and disorder in an area. Good management and good practice along with adequate physical controls can make an important difference to the level of alcohol related crime at premises. Such measures should be reflected in the operating schedule.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to minimise the potential for crime and disorder. Useful information can be found in documents such as 'Secured by Design'.

Licence holders should have clear documented policies and procedures in place which identify all crime and disorder risks associated with their premises and the measures implemented to prevent, manage and respond to those risks.

<b>Risk</b>	<b>Good practice measure</b>
<b>Security in and around the premises</b>	Emergency exits should be alarmed when the premises are open to the public so that staffs are immediately notified of unauthorised opening or tampering.  <b>CCTV</b> should be installed inside and outside the premises. The cameras should cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct. The recordings should be in real time and on hard drive with the availability to copy disks for other agencies such as the police. Recordings should

<p><b>Crime including conflict, violence or aggression in</b></p>	<p>be kept for a minimum period of 28 days. Staff should be trained in the maintenance and operation of such systems with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority. A trained member of staff should be on duty to operate the system whenever the premises are open.</p> <p><b>External lighting</b> provides an obvious means of crime deterrence. Care should be taken so that lighting does not impact on neighbours.</p> <p><b>Door staff and/or stewards</b> should be employed at the venue to supervise admissions and customers inside the venue.</p> <p>Any person performing the role of a door supervisor must be licensed with the Security Industry Authority (SIA) and SIA badges must be clearly displayed whilst working</p> <p>Door staff should be easily identifiable by wearing a uniform, high visibility jackets or arm bands.</p> <p>Door staff should sign into a register detailing their full SIA licence number, their name, contact details and the time and date their duty commenced and concluded.</p> <p>Stewards and other staff at the premises should also be easily identifiable. Stewards must not be used for supervision of the door.</p> <p><b>Daily staff briefing and debriefing</b> will enable licensees to improve working practices in their premises.</p> <p>Briefings can be informal but any problems identified and remedial action taken should be recorded with records kept in the main office.</p> <p><b>Proper management of the door</b> will depend on the size and type of venue. The number of door supervisors should be determined by a risk assessment taking into account the size of</p>
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**and around the premises**

venue and the type of crowd the entertainment is likely to attract, but at the very least on a ratio of 1 door supervisor per 100 customers.

Consideration should be given to a sufficient provision of male and female door supervisors, but at least one female door supervisor should be used.

**Door admissions policy** including any age restrictions, expected dress standards or the screening of hand bags should be widely publicised on any promotional material or website and clearly displayed at the entrance to the premises.

**Ejecting or refusing entry to persons** from the premises if they do not meet your admissions standards or they are known to be violent or aggressive. In such cases, an entry should be made in an incident or log book.

**Policy to manage capacity** should be adopted to prevent overcrowding and patrons possibly becoming aggressive through accidental jostling.

Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons and avoid conflict, violence or aggression within the premises.

**Alternatives to glass drinking vessels** should be considered to prevent glassware being used as an assault weapon, particularly during promoted events or sporting events.

Where alternatives are not used, there should be a robust glass collection policy in place. This should include regular collection of glassware by staff and prevention of glassware being removed from the premises.

**Staff training** in conflict management should be provided to give them the knowledge and confidence to deal with difficult situations and reduce crime and disorder at the premises. Training should also cover dealing with, logging and reporting incidents if they occur.

**Drugs and weapons being brought into the premises**

Records should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.

**Sharing of information** with others in the industry. Regular meetings, the use of local radio networks or membership of a local pub/club watch scheme will enable information to be passed on about trouble makers and common problems in the area.

**A zero tolerance policy** to the use of drugs and carrying of weapons in the premises should be adopted with a clear “no search no entry” message.

Posters can be displayed throughout the premises to remind customers of zero tolerance policy especially in the toilet areas of the premises.

**Effective search policies** will minimise the opportunity for drugs and weapons to be brought into licensed premises and lead to drug and weapon seizure if attempts are made.

Search policies should be formulated in consultation with Gwent Police, currently the police have formulated such a policy.

Searches should always be carried out in public areas and covered by CCTV.

All staff must be trained on search policies with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.

**Calling the police** if customers are suspected of being in possession of drugs or weapons. All staff must be made aware of this requirement.

**Seizing, retaining and documenting** any drugs or weapons found with a clear audit trail and a process for surrendering them to the Police. (Currently Gwent Police has a written procedure)

**Supervising toilet areas** can be effective in discouraging drug





<p><b>customers</b></p>	<p>recommended by the British Beer and Pub Association (BBPA) and The Portman Group. This is in addition to adherence with the mandatory licensing condition regarding irresponsible promotions.</p> <p><b>Staff training</b> on the effects of alcohol and how to spot early signs of customers becoming drunk should be provided to give them the knowledge and confidence to deal with drunken patrons.</p> <p>Staff should be aware of their responsibilities under the Licensing Act 2003 and be able to recognise appropriate ‘cut off’ points for serving drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.</p> <p><b>Duty of care policy</b> regarding persons suffering adversely from the effects of drink should be in place at the premises. The policy should clearly express that every effort will be made by staff to prevent patrons from deteriorating to an uncontrolled intoxicated extent. All staff must be briefed on the policy.</p> <p><b>Drink-aware posters</b> can be displayed in the premises to remind customers of the unit content in alcoholic drinks and the safe alcohol consumption limits.</p>
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## Public Safety

This section provides guidance on good practice for the promotion of public safety at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the promotion and management of public safety at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks to the safety of the public (including performers) attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing public safety at their premises.

All applications for new licences and variations should address the steps proposed to promote public safety and this is best achieved through a premises risk assessment.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to achieve the highest possible standard of safety.

Licence holders should have clear documented policies and procedures in place which identify all public safety risks associated with their premises and measures implemented to prevent, manage and respond to those risks.

<b>Risk</b>	<b>Good practice measure</b>
<p><b>General safety of Staff and customers.</b></p>	<p><b>Full risk assessment</b> taking into account public safety should be carried out at the premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards.</p> <p>Templates can be found on the Health and Safety Executive website and on the Communities and Local Government website. A risk assessment should be regularly reviewed at least every 12 months. All staff should be made aware of the risk assessment and precautionary measures therein. A copy of the risk assessment should be kept at the premises and made available for inspection.</p> <p><b>Recognised qualification in first aid</b> should be held by at least one member of staff who should be on duty at all times the premises licence is in use.</p> <p><b>First aid room</b> or quiet room should be made available to anyone requiring medical attention.</p> <p><b>Temperature levels</b> and humidity in venues should be controlled for the comfort and safety of customers. An environment that is too hot or too cold can make customers irritable. In larger venue where people are dancing air condition can be used to ensure people overheat.</p>
<p><b>Overcrowding</b></p>	<p><b>A policy to manage the capacity</b> should be adopted to prevent overcrowding and localised overcrowding.</p> <p>(b) The use of electronic clocking systems, clickers, ticket sales or</p>

<p><b>Accumulation and disposal of glasses/drinking vessels</b></p>	<p>head counts may be appropriate.</p> <p>(c) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons.</p> <p><b>A glass collection policy</b> should include provisions for regular collection of glassware by staff and the prevention of glassware from being taken into external areas. Glassware should not be allowed to accumulate or cause obstruction.</p> <p>Perimeter checks should be made outside the premises for any glasses or bottles. All staff must be made aware of the glass collection policy and their responsibility for the task.</p> <p><b>Spillages and broken glass</b> should be cleaned up immediately to prevent floors from becoming slippery and unsafe.</p> <p><b>The use of plastic or polycarbonate glasses</b> are recommended where there is provision of dancing.</p>
<p><b>Drug use or drink Spiking.</b></p>	<p><b>A zero tolerance policy</b> to the use of drugs in the premises should be adopted.</p> <p>Posters can be displayed throughout the premises to remind customers of the zero tolerance policy.</p> <p><b>Refusing entry</b> to anyone who appears to be showing signs of drug use and contacting the emergency services in appropriate circumstances. In such cases, an entry should be made in an incident log book.</p> <p><b>A duty of care policy</b> regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide medical attention where necessary. All staff must be briefed on the policy. A record should be kept of the date and name of person trained.</p> <p><b>Prevent the possibility of drink spiking</b> by offering various anti drink spiking products to customers.</p> <p>If a customer suspects that their drink has been spiked, you should report it to the police immediately. A process for this</p>

<p><b>Safety of customers when leaving the premises</b></p>	<p>should be clearly set out in your duty of care policy.</p> <p><b>'Chill out' area</b> should be provided. This should be cooler and quieter than rest of venue.</p> <p><b>First Aid Room</b> may also be made available.</p> <p><b>A 'chill out' or wind down period at the end of an evening</b> can allow a slow dispersal from the premises allowing door staff to gain a handle on problem individuals, preventing arguing over taxis or congregation at takeaways and clashes with groups from other venues.</p> <p>Provision of food and non-alcoholic drinks during a chill out period can be effective in allowing customers to sober up before leaving the premises.</p> <p><b>Increased lighting</b> inside the premises should be considered towards the end of an evening to affect the alertness of customers before they leave the premises.</p> <p><b>Increased external lighting</b> particularly in car parks under the direct control of the licence holder will provide added safety for customers as they leave the premises.</p> <p>Care should be taken so that lighting does not impact on neighbours, particularly in and close to established residential areas.</p>
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## **Prevention of public nuisance**

This section provides guidance on good practice for the prevention and management of public nuisance from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of noise and other public nuisance issues from their premises after a licence has been granted.

Excessive noise and nuisance from licensed premises is a major concern for persons living or working in the area. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing public nuisance from their premises.

All applications for new licences and variations should address the steps proposed to prevent public nuisance. Where entertainment or other potentially noisy activity is planned, a noise assessment should be carried out. For some premises, the assessment will need to be carried out by a suitably qualified consultant.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the structure and layout of the premises and equipment both internally and externally, to ensure that the premises are fit for purpose. Sound attenuation measures can include wall linings, acoustic curtains and acoustic treatment to mechanical ventilation or air conditioning systems. Consideration should also be given to historical noise problems at the premises with measures put in place to prevent them from recurring.

Licence holders should have clear documented policies and procedures in place which identify all public nuisance risks associated with their premises and measures implemented to prevent, manage and respond to those risks. Licence holders should also engage with local residents and businesses on a regular basis to ensure that they are being good neighbours and dealing with problems as they arise.

<b>Risk</b>	<b>Good Practice measure</b>
Entertainment and Patrons noise.	<p><b>A noise management policy</b> should be in place that sets out sound attenuation measures to prevent or control music, singing and speech noise breakout from the premises.</p> <p>The policy should be based on the findings of an acoustic consultant's assessment.</p> <p>All staff should be trained on the content of the policy to ensure a commitment to good noise management. A record should be kept of the date and name of person trained and made available for inspection by the licensing authority or environmental health responsible authority.</p> <p>DJs, event promoters or other entertainment providers should be made aware of the policy in advance of any performance.</p> <p><b>Windows and doors should be kept closed</b> whilst the premises licence is in use to prevent noise breakout. Ventilation should be provided by mechanical means. Windows should be sound insulated. Emergency exits should be sealed acoustic doors. A</p>

	<p>lobbied area should be provided at the entrance and exit to the premises. Doors should be fitted with self-closing devices.</p> <p><b>Sound limiting device</b> should be installed, set and sealed at a level approved by an acoustic consultant. The sound limiting device should be used at all times that relevant regulated entertainment is taking place, including all externally promoted events. Only the premises licence holder or a nominated deputy and the designated premises supervisor should have access to the sound limiting device.</p> <p><b>Locate entertainment facilities</b> such as DJ booth, stage and loud speakers away from doors and windows. Rubber speaker mounts can be used to minimise structure borne noise.</p> <p><b>Methods for monitoring noise</b> should be included in a noise policy. Methods could range from simple perimeter checks and listening tests by the licence holder/staff to a detailed measurement taken by a qualified consultant using sound measuring equipment.</p> <p>Noise monitoring should actively be carried out on a regular basis and in particular when a new form of entertainment is introduced at the premises, when alterations are made to the premises or when a complaint is made directly to the venue.</p> <p><b>A log book</b> should be kept of any noise monitoring carried, the findings and any remedial action taken. The log should indicate whether it was routine noise monitoring or the result of a complaint.</p> <p>The log book should be made available for inspection by the licensing authority or environmental health responsible authority.</p> <p><b>A contact telephone number</b> should be made available to local residents and businesses which they can use to report noise disturbances to a responsible person at the venue as and when they occur. The phone line should be available at all times the licence is in use.</p> <p><b>Reduce the potential for excessive queue lines</b> with a well-managed and efficient door policy.</p>
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**Noise in external areas such as beer gardens or smoking areas.**

Long queues should be avoided and any queues should be directed away from residential properties.

Queues should be actively managed by door staff, especially later in the evening, to keep noise to a minimum. Rowdy behaviour from people queuing to get in should not be tolerated. Door staff should refuse entry to anyone behaving in an anti-social way. Restrict admittance or re-admittance to the premises.

**Customer dispersal policy** can minimise noise disturbance to local residents from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening.

A gradual change in music style and reduction in volume, for example quiet or mellow music towards the end of an evening and increasing lighting levels can help to reduce the potential for rowdy behaviour.

Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.

**Display prominent notices** close to the exit doors, requesting patrons to leave the premises and quickly and quietly.

Display notices in car parks reminding patrons that they are in a residential area and to leave quickly and quietly and not to slam doors, rev engines, sound horns or play loud music.

Make announcements at the end of an evening, requesting patrons to leave the premises and area quickly and quietly.

**Provide a free taxi phone service and an internal waiting area** for customers to prevent noise disturbance to neighbours.

Steps should be taken to ensure that any taxi operators used and all their drivers are aware that they should arrive and depart as quietly as possible and should not sound their horns or leave engines idling unnecessarily.

**Display prominent signs** in external areas such as beer gardens





## Protection of children from harm

This section provides guidance on good practice for the protection of children from harm at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the protection and management of children from harm at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks of harm to children attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing the well-being of children at their premises.

All applications for new licences and variations should address the steps proposed to protect children from harm and this is best achieved through a premises risk assessment.

Licence holders should have clear documented policies and procedures in place which identify all age restricted risks at their premises and measures implemented to prevent, manage and respond to those risks.

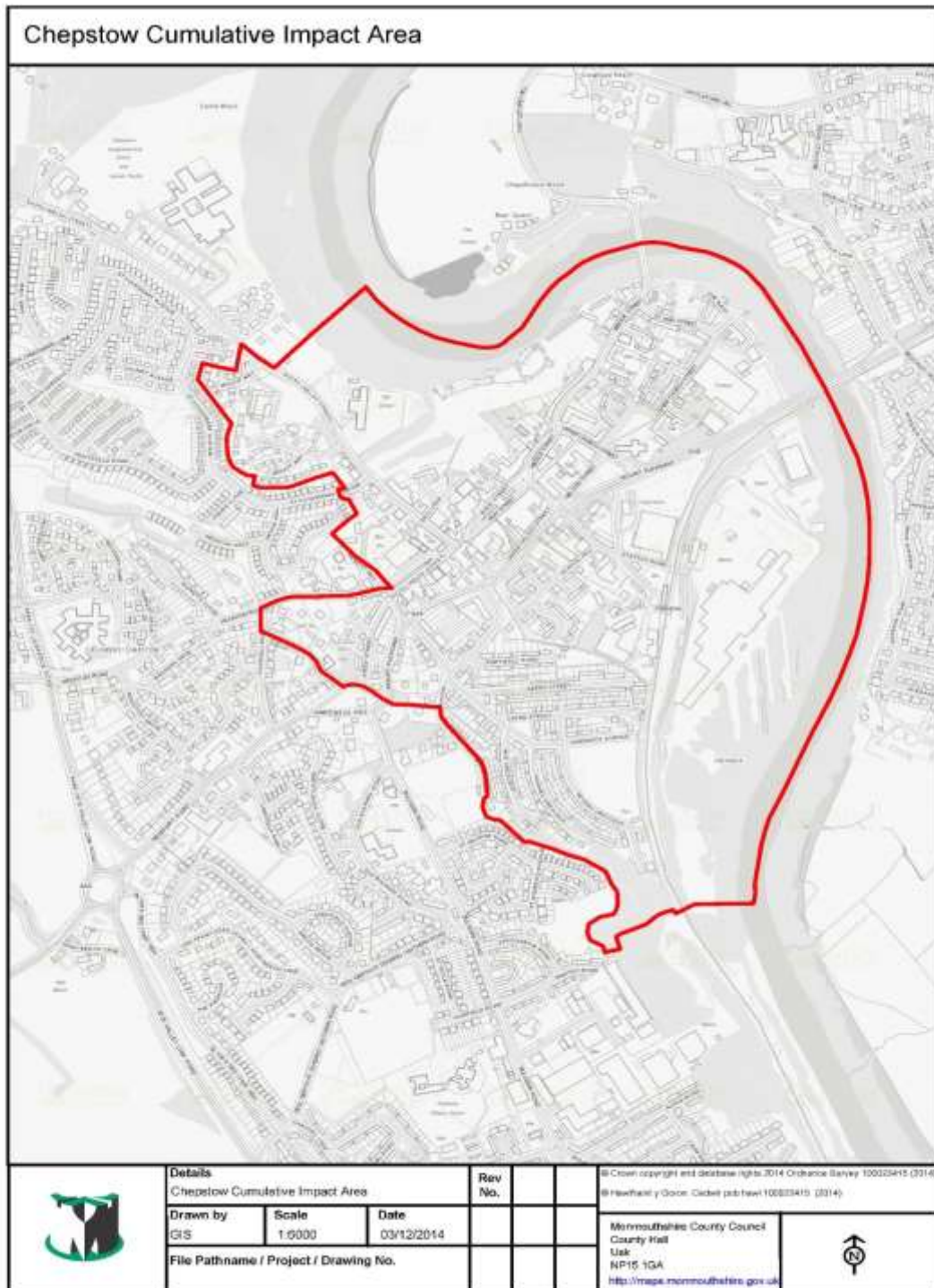
Risk	Good Practice measure
<b>Children accessing licensed premises</b>	<p><b>A documented policy</b> setting out measures to protect children from harm should be in place at the premises. The policy should consider all activities associated with the premises including the sale of alcohol and the provision of regulated entertainment and when children should be allowed on or restricted from the premises. All staff including door staff and bar staff should be trained on the policy.</p> <p><b>Restrict access to children</b> depending on the nature of the business and / or circumstances. The admission of children can be restricted up until a specified time in the evening.</p> <p>The admittance of children can only be permitted if they are accompanied by an adult.</p>
<b>Underage sales of alcohol</b>	<p><b>Operate a strict ‘No ID – No Sale’ policy. ‘Challenge 21’ scheme</b> serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.</p>

<p><b>Access to age restricted films.</b></p>	<p>'Challenge 25' scheme gives staff additional support and encouragement to ask for ID from any person appearing to be under 25 years of age to prove that they are over 18.</p> <p>Only accept photographic driving licences, passports or PASS (Proof of Age Standards Scheme) cards approved as means of ID.</p> <p>Use till prompts to remind staff to ask for proof of age.</p> <p>Prominently advertise the scheme in your premises so that customers are aware, in particular, display proof of age signs at the point of sale.</p> <p><b>Display posters at the premises</b> stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales).</p> <p><b>Keep a refusals book</b> (or refusal button on EPOS –Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.</p> <p>The book should contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused.</p> <p>The book should be made available to Police and authorised Council officers on request.</p> <p>The book should be reviewed on a regular basis to see if any patterns emerge.</p> <p><b>Staff training</b> in the age related sections of the Licensing Act 2003 should be provided to all door, bar and till staff. This includes the ability to competently check customers' identification where necessary.</p> <p>A record should be kept of the date and name of person trained.</p> <p><b>Adequate provisions for restricting children</b> from viewing age restricted films should be in place at the premises. Staff</p>
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	should be trained to check ages at point of sale and prior to entry to a screening room to ensure that admission of children to films is in accordance with the recommendations of the British Board of Film Classifications (BBFC).
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# Appendix B -

## Geographical Area of Cumulative Impact Policy in Chepstow



**SCHEDULE 12A LOCAL GOVERNMENT ACT 1972  
EXEMPTION FROM DISCLOSURE OF DOCUMENTS**

**REPORT:** To consider the Drivers Licence Application,  
of the person referred to in the accompanying report

**AUTHOR:** Samantha Winn

**MEETING AND DATE OF MEETING:** Tuesday 21<sup>st</sup> April 2015  
Licensing and Regulatory Committee

I have considered grounds for exemption of information contained in the report referred to above and make the following recommendation to the Proper Officer:-

**Exemptions applying to the report:**

Information relating to a particular individual as described in Paragraph 12 of part 4 of Schedule 12A to the Local Government Act 1972

**Factors in favour of disclosure:**

Openness and transparency in matters concerned with the public

**Not applicable at this time ( see below)**

**Prejudice which would result if the information were disclosed:**

**Applicable** The applicant will be attending the Committee meeting on the Tuesday 21<sup>st</sup> April 2015 and any information disclosed prior to this date may jeopardise the applicant's right to a fair hearing

**My view on the public interest test is as follows:**

Factors in favour of **not disclosing** outweigh those against.

**Recommended decision on exemption from disclosure:**

Maintain exemption from publication in relation to report.

**Date:** 9/4/2015

**Signed:** 

**Post:** Principal Licensing Officer

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I accept/do not accept the recommendation made above.

  
Proper Officer

Date: 9/4/15